By Mr. KNOWLAND: Petition of the Humboldt Chamber of Commerce, of Eureka, Cal., for suitable housing of our diplomats abroad; to the Committee on Foreign Affairs.

Also, resolutions adopted by the Los Angeles Chamber of Commerce, Los Angeles, Cal., urging the passage of House bill 6862, for permanent consular improvement and commercial enlargement; to the Committee on Foreign Affairs.

Also, resolutions passed by the Chamber of Commerce of Los Angeles, Cal., urging the opening of the coal lands in Alaska for public use; to the Committee on the Territories.

By Mr. LAFEAN: Petition of Jacob Jones Council, Junior Order United American Mechanics, of Dover; Washington Camps Nos. 443, 778, 433, and 328, Patriotic Order Sons of America, of Davidsburg, Newberrytown, La Bott, and Hanover, all in the State of Pennsylvania, for House bill 15413, providing for further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. LANGLEY: Petition of citizens of tenth Kentucky congressional district, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. LOWDEN: Petition of First Presbyterian Church of Kings, State of Illinois, for House bill 23641, the Miller-Curtis bill; to the Committee on the Judiciary.

By Mr. McCREDIE: Memorial of the Washington Educational Association, of Tacoma, Wash., favoring an appropriation of $75,000 for special lines of industrial education; to the Committee on Education.

Also, memorials of Tacoma Chamber of Commerce and the Rotary Club, of Tacoma, Wash., favoring an appropriation of $50,000 for the improvement and protection of the Rainier National Park; to the Committee on the Public Lands.

Also, petition of Washington Camp, No. 1, Patriotic Order Sons of America, Tacoma, Wash., for House bill 15413; to the Committee on Immigration and Naturalization.

Also, memorial of house and senate of Washington, against any Federal supervision of fisheries within limits of the State; to the Committee on the Merchant Marine and Fisheries.

Also, memorial of house and senate of Washington, for Senate bill 9476, providing for a soldiers' pension of not less than $50 per month for blindness; to the Committee on Invalid Pensions.

By Mr. McKINNEY: Petition of Methodist Episcopal Church of Hillsdale and Lima, Ill., favoring the Miller-Curtis bill; to the Committee on the Judiciary.

By Mr. McMORRAN: Petition of Charles Stranahan and other citizens of Michigan, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. NEEDHAM: Memorial of the Legislature of California, favoring Senate joint resolution No. 9; to the Committee on Irrigation of Arid Lands.

Also, petition of Los Angeles Chamber of Commerce, relative to opening Alaska coal fields; to the Committee on the Territories.

Also, petition of Los Angeles Chamber of Commerce, favoring the Cullom-Sterling consular bill (S. 1053 and H. R. 6862); to the Committee on Foreign Affairs.

By Mr. MOORE of Pennsylvania: Petition of Local 105, Pride of the Valley, Junior Order United American Mechanics, New Kensington, Pa., for further restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. HENRY W. PALMER: Petition of Washington Camp No. 259, Patriotic Order Sons of America, of Drifton, Pa., for House bill 15413; to the Committee on Immigration and Naturalization.

Also, petition of Bert Millard and 52 others, of Luzerne County, Pa., for battleship construction in a Government navy yard; to the Committee on Naval Affairs.

By Mr. A. MITCHELL PALMER: Petitions of Washington Camp No. 498; Wykoff Commandery, No. 39; and Washington Camp, Patriotic Order Sons of America, of Pen Argyl, Easton, and Audenried, all in the State of Pennsylvania; and Ackermanville Council, Saxton Council, No. 591; Annette Council, No. 732; and Local Council No. 973, Junior Order United American Mechanics, of Saxton, Philipsburg, and Penns Park, all in the State of Pennsylvania, for more stringent immigration laws; to the Committee on Immigration and Naturalization.

By Mr. PUJO: Petition of Nicholas Bros., Merryville, and J. J. Kinguey, Kinder, La., against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. SHEFFIELD: Petition of Arthur Perry and five other citizens of Rhode Island, of the Society of Friends, against fortifying the Panama Canal; to the Committee on Railways and Canals.

Also, paper to accompany bill for relief of Betsey A. Streeter and Sophie M. Kinnicutt; to the Committee on Invalid Pensions.

By Mr. SMITH of Michigan: Petition of C. R. Halleck, of Brent Creek, Mich., against a rural parcels post; to the Committee on the Post Office and Post Roads.

By Mr. STEVENS of Minnesota: Petition of railway mail clerks of the Northwest, relative to increase of compensation and investigation of conditions and other matters; to the Committee on the Post Office and Post Roads.

By Mr. STURGISS: Petition of the Potomac Valley Council, of Bernie, W. Va., for restricted immigration; to the Committee on Immigration and Naturalization.

By Mr. WANGER: Resolutions of Local Union No. 897, Brotherhood of Carpenters and Joiners of America, located at Norristown, Pa., in behalf of the bill (H. R. 15413) to amend the immigration act; to the Committee on Immigration and Naturalization.

Also, resolution of Branch No. 10, Glass Bottle Blowers' Association of the United States and Canada, of Royersford, Pa., in behalf of House bill 29886; to the Committee on Interstate and Foreign Commerce.

By Mr. WOOD of New Jersey: Petition of Washington Camps Nos. 1, 12, and 7, Patriotic Order Sons of America, of Lambertville, Milford, and Trenton, all in the State of New Jersey, for enactment of House bill 15413; to the Committee on Immigration and Naturalization.

SENATE.

WEDNESDAY, *February 8, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ENROLLED BILLS SIGNED.

The VICE PRESIDENT announced his signature to the following enrolled bills and joint resolutions, which had previously been signed by the Speaker of the House of Representatives:

S. 1028. An act to appoint Warren C. Beach a captain in the Army and place him on the retired list;

S. 1318. An act for the relief of Arthur H. Barnes;

S. 2429. An act for the relief of the estate of James Mitchell, deceased;

S. 3097. An act for the relief of Douglas C. McDougal;

S. 3494. An act for the relief of Edward Forbes Greene;

S. 3897. An act for the relief of the heirs of Charles F. Atwood and Ziba H. Nickerson;

S. 4780. An act for the relief of the heirs of George A. Armstrong;

S. 5873. An act for the relief of John M. Blankenship;

S. 6386. An act to diminish the expense of proceedings on appeal and writ of error or of certiorari;

S. 6693. An act to amend an act entitled "An act permitting the building of a dam across the Mississippi River at or near the village of Sauk Rapids, Benton County, Minn.," approved February 26, 1904;

S. 7138. An act granting to the town of Wilsoncreek, Wash., certain lands for reservoir purposes;

S. 7901. An act providing for the restoration and retirement of Frederick W. Olcott as a passed assistant surgeon in the Navy;

S. 8353. An act for the relief of S. S. Somerville;

S. 8583. An act for the relief of Malcolm Gillis;

S. 8592. An act to authorize the construction of a bridge across the Missouri River between Lyman County and Brule County, in the State of South Dakota;

S. 10288. An act granting to Herman L. Hartenstein the right to construct a dam across the St. Joseph River near Mottville, St. Joseph County, Mich.;

S. 10324. An act extending the provisions of the act approved March 10, 1908, entitled "An act to authorize A. J. Smith and his associates to erect a dam across the Choctawhatchee River, in Dale County, Ala.;"

S. J. Res. 94. Joint resolution authorizing the President to give certain former cadets of the United States Military Academy the benefit of a recent amendment of the law relative to hazing at that institution; and

S. J. Res. 101. Joint resolution providing for the printing of 2,000 copies of Senate Document No. 357, for use of the Department of State.

LADING AND ENTRY OF VESSELS, ETC.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 6011) to

provide for the lading or unlading of vessels at night, the preliminary entry of vessels, and for other purposes, which was, on page 5, line 18, after "provided," to insert "the said extra compensation to be paid by the master, owner, agent, or consignee of such vessels."

Mr. FRYE. I move that the Senate concur in the House amendment.

The motion was agreed to.

THOMAS HOYNE.

The joint resolution (H. J. Res. 209) for the relief of Thomas Hoyne was read the first time by its title.

Mr. JONES. That is a short measure and one similar to it has been reported by the Senate committee and is now on the calendar. I ask unanimous consent that it may be put on its passage.

The VICE PRESIDENT. The joint resolution will be read for the information of the Senate.

The joint resolution was read the second time at length, as follows:

Resolved, etc., That the Secretary of the Treasury of the United States be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated, the sum of $3,000 to Thomas Hoyne, in full satisfaction of his claim for damages by destruction of his property by Indians, July 6, 1867.

Mr. HEYBURN. There is no law under which we can authorize the Secretary of the Treasury to pay money out of the Treasury of the United States. It is the Treasurer who pays out the money. I think there has been an inadvertence, and the joint resolution had better be amended.

Mr. JONES. What is the point made by the Senator from Idaho?

Mr. HEYBURN. We do not authorize the Secretary of the Treasury to pay money. That is not within the limit of his functions. It is the Treasurer who pays the money. The Secretary authorizes it, but the Treasurer pays. He merely advises it.

Mr. JONES. I ask that the joint resolution may lie on the table for the present.

The VICE PRESIDENT. Without objection, the joint resolution will lie on the table.

Mr. JONES subsequently said: I ask unanimous consent for the present consideration of the joint resolution (H. J. Res. 209) for the relief of Thomas Hoyne, which has just come from the other House.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. JONES. I offer the amendment to the joint resolution which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Washington will be stated.

The SECRETARY. In line 3, after the word "That," it is proposed to strike out "the Secretary of the Treasury of the United States be, and he is hereby, directed to pay, out of any money in the Treasury not otherwise appropriated," and after the word "dollars," in line 6, to insert "is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay."

The VICE PRESIDENT. Without objection, the amendment will be agreed to.

Mr. KEAN. Let the joint resolution be read as it will stand if amended.

The VICE PRESIDENT. The joint resolution will be read as proposed to be amended.

The Secretary read as follows:

Resolved, etc., That the sum of $3,000 is hereby appropriated out of any money in the Treasury not otherwise appropriated to pay to Thomas Hoyne in full satisfaction of his claim for damages by the destruction of his property by Indians July 6, 1867.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to a third reading, read the third time, and passed.

The VICE PRESIDENT. The bill (S. 10526) for the relief of Thomas Hoyne will be indefinitely postponed.

ST. JOHN RIVER BRIDGE, ME.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 9552) to authorize the construction of a bridge across St. John River, Me., which was, on page 1, to strike out line 3, down to and including line 3, page 2, and insert:

That the consent of Congress is hereby given to the construction, maintenance, and operation by the State of Maine and the Dominion of Canada, jointly, of a bridge now in course of erection across St. John River between Van Buren, Me., and St. Leonards, New Brunswick, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, said bridge to be used only as a common highway for passengers and common vehicles, and in no case used for steam, electric, or other railways.

Mr. FRYE. I move that the Senate concur in the House amendment.

The motion was agreed to.

MONUMENT TO ABRAHAM LINCOLN.

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 9449) to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln, which were, on page 1, line 3, after "WILLIAM H. TAFT," to insert "SHELBY M. CULLOM, JOSEPH G. CANNON;" on page 1, line 10, to strike out "their" and insert "its;" on page 1, line 12, to strike out "they" and insert "it;" on page 1, line 13, to strike out "themselves and insert "and itself;" on page 2 to strike out all of section 5 and insert:

SEC. 5. That to defray the necessary expenses of the commission herein created and the cost of procuring plans or designs for a memorial or monument, as herein provided, there is hereby appropriated the sum of $50,000, to be immediately available.

Mr. LODGE. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

SENATOR FROM MINNESOTA.

Mr. NELSON presented the credentials of MOSES E. CLAPP, chosen by the Legislature of the State of Minnesota a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had passed the bill (S. 10221) authorizing the Secretary of Commerce and Labor to exchange the site for the immigration station at the port of Boston.

The message also announced that the House had passed, with amendments, the following bills, in which it requested the concurrence of the Senate:

S. 3315. An act amending an act entitled "An act to amend an act to provide the times and places for holding terms of the United States court in the States of Idaho and Wyoming," approved June 1, 1898;

S. 5379. An act for the erection of a statue of Maj. Gen. Nathanael Greene upon the Guilford battle ground, in North Carolina;

S. 6953. An act authorizing contracts for the disposition of waters of projects under reclamation acts, and for other purposes;

S. 9449. An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln; and

S. 9566. An act to reserve certain lands and to incorporate the same and make them a part of the Pocatello National Forest Reserve.

The message further announced that the House had passed the following bills and joint resolution:

H. R. 9137. An act to authorize the expenditure of the sum of $25,000 as a part contribution toward the erection of a monument at Germantown, Pa., in commemoration of the founding of the first permanent German settlement in America;

H. R. 24746. An act to extend the extradition laws of the United States to China;

H. R. 24885. An act to amend section 3536 of the Revised Statutes of the United States, relating to the weighing of silver coins;

H. R. 24886. An act to amend sections 3548 and 3549 of the Revised Statutes of the United States, relative to the standards for coinage;

H. R. 26290. An act providing for the validation of certain homestead entries;

H. R. 30570. An act to authorize the receipt of certified checks drawn on national banks for duties on imports and internal taxes, and for other purposes;

H. R. 30571. An act permitting the building of a dam across Rock River at Lyndon, Ill.;

H. R. 30888. An act providing for the purchase or erection, within certain limits of cost, of embassy, legation, and consular buildings abroad;

H. R. 31538. An act to authorize the Pensacola, Mobile & New Orleans Railway Co., a corporaion existing under the laws of the State of Alabama, to construct a bridge over and across the Mobile River and its navigable channels on a line opposite the city of Mobile, Ala.;

H. R. 31600. An act to authorize the erection upon the Crown Point Lighthouse Reservation, N. Y., of a memorial to commemorate the discovery of Lake Champlain;

H. R. 31648. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River at Chattanooga, Tenn.;

H. R. 31656. An act extending the time for commencing and completing the bridge authorized by an act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County;"

H. R. 31662. An act granting five years' extension of time to Charles H. Cornell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River, on the Fort Niobrara Military Reservation, and to construct electric light and power wires and telephone line and trolley or electric railway, with telegraph and telephone lines, across said reservation;

H. R. 31860. An act permitting the building of a wagon and trolley-car bridge across the St. Croix River between the States of Wisconsin and Minnesota;

H. R. 32082. An act limiting the privileges of the Government free bathhouse on the public reservation at Hot Springs, Ark., to persons who are without and unable to obtain the means to pay for baths;

H. R. 32344. An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest;

H. R. 32473. An act for the relief of the sufferers from famine in China; and

H. J. Res. 146. Joint resolution creating a commission to investigate and report on the advisability of the establishment of permanent maneuvering grounds and camp of inspection for troops of the United States at or near the Chickamauga and Chattanooga National Military Park.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 4239. An act to amend section 183 of the Revised Statutes;

S. 6011. An act to provide for the lading or unlading of vessels at night, the preliminary entry of vessels, and for other purposes;

S. 6702. An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto;

S. 6842. An act to authorize the Secretary of the Interior to withdraw public notices issued under section 4 of the reclamation act, and for other purposes;

S. 8916. An act extending the time for certain homesteaders to establish residence upon their lands;

S. 10221. An act authorizing the Secretary of Commerce and Labor to exchange the site for the immigrant station at the port of Boston; and

S. J. Res. 133. Joint resolution providing for the filling of a vacancy which occurred on January 23, 1911, in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

WASHINGTON GAS LIGHT CO.

The VICE PRESIDENT laid before the Senate the annual report of the Washington Gas Light Co., of the District of Columbia, for the fiscal year ended December 31, 1910 (H. Doc. No. 1363), which was referred to the Committee on the District of Columbia and ordered to be printed.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a joint memorial of the Legislature of the State of Oregon, which was referred to the Committee on Public Buildings and Grounds and ordered to be printed in the RECORD, as follows:

House joint memorial 2.

To the honorable Senate and House of Representatives of the United States:

Your memorialists, the Twenty-sixth Legislative Assembly of the State of Oregon, respectfully represent:

Whereas Congress at its last session appropriated the sum of $10,000 for a site for the purpose of erecting and constructing thereon a Federal building for the city of Roseburg, Oreg., to relieve the congested condition of the Federal offices of said city, to wit: The United States Land Office, the United States Post Office, the United States Weather Observatory, also the United States District Forestry Bureau; and

Whereas said offices now occupy separate buildings with a floor space at a great rental expense to the Federal Government; and

Whereas the Government has advertised for and has now practically selected and purchased said site for said Federal building: Now therefore

Your memorialists do earnestly pray the Congress of these United States (at this session) do appropriate the sum of $250,000 for the purpose of constructing such building of such a capacity to relieve said congested condition. And that a copy of this memorial be forwarded to the Senate and House of the United States in Congress assembled, and a copy thereof to each of the Oregon Representatives therein.

Adopted by the house January 19, 1911.

JOHN P. RUSK, *Speaker of the House.*

Concurred in by the senate January 26, 1911.

BEN SELLING, *President of the Senate.*

UNITED STATES OF AMERICA, STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon, and custodian of the seal of said State, do hereby certify:

That I have carefully compared the annexed copy of House Joint Memorial No. 2, with the original thereof, which was adopted by the house January 19, 1911, and concurred in by the senate January 26, 1911, and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof, I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 31st day of January, A. D. 1911.

[SEAL.] F. W. BENSON, *Secretary of State.*

Mr. BROWN. I present a telegram in the nature of a petition from the Legislature of the State of Nebraska, which I ask may be read and referred to the Committee on Pensions.

There being no objection, the telegram was read and referred to the Committee on Pensions, as follows:

LINCOLN, NEBR., *February 7, 1911.*

Senator NORRIS BROWN,
Washington, D. C.:

I am instructed to transmit the following resolution passed to-day by the Nebraska house of representatives, letter follows:

"Be it resolved by this Nebraska house of representatives, That we contemplate with satisfaction and approval the action taken by the House of Representatives of Congress of the United States upon a measure therein pending, known as the Sulloway bill, providing for service pensions for surviving Civil War veterans, and we do hereby memorialize and petition the Senate of the United States to concur in the action of the House of Representatives in this behalf."

HENRY C. RICHMOND, *Chief Clerk.*

Mr. BRIGGS presented a memorial of the National Grange, Patrons of Husbandry, remonstrating against the ratification of the proposed reciprocity agreement between the United States and Canada, which was referred to the Committee on Foreign Relations.

He also presented petitions of the Woman's Literary Club, of Bound Brook; the Children's Aid and Protective Society of the Oranges; and of Mrs. Grace Nicoll, of Morristown, all in the State of New Jersey, praying for the passage of the so-called children's bureau bill, which were ordered to lie on the table.

He also presented petitions of J. M. Tucker Post, No. 65, of Newark; Zabriskie Post, No. 38, of Jersey City; Hexamer Post, No. 34, of Newark; Sheridan Post, No. 110, of Newark, all of the Grand Army of the Republic, Department of New Jersey; and of Rev. W. W. Case, pastor of the Olivet Baptist Church, of Trenton, all in the State of New Jersey, praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented the petition of C. J. Baxter, State superintendent, department of public instruction of New Jersey, and the petition of Dr. Ebenezer Mackey, supervising principal, board of education of Trenton, N. J., praying that an appropriation be made for the extension of the field work of the Bureau of Education, which were referred to the Committee on Education and Labor.

He also presented petitions of Zucker, Steiner & Co., of Newark; Elias & Samuels, of Long Branch; and the Wholesale Liquor Dealers' Association of Jersey City, all in the State of New Jersey, praying for the enactment of legislation providing an allowance for loss of distilled spirits deposited in internal-revenue warehouses, which were referred to the Committee on Finance.

He also presented petitions of Washington Camp No. 6, of Trenton; Camp No. 28, of Asbury Park; Camp No. 111, of Asbury Park; Camp No. 1, of Lambertville; Camp No. 64, of Phillipsburg; Camp No. 139, of Columbus; Camp No. 7, of Trenton; Camp No. 85, of Red Bank; Camp No. 78, of Elizabeth; Camp No. 29, of Merchantville; Camp No. 20, of Trenton; Camp No. 35, of Delanco, of the Patriotic Order Sons of America; and of Local Union No. 542, United Brotherhood of Carpenters and Joiners, all in the State of New Jersey, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. CRAWFORD. I present a joint resolution of the Legislature of the State of South Dakota, which I ask may be printed in the RECORD and referred to the Committee on Military Affairs.

There being no objection, the joint resolution was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

A joint resolution and memorial requesting the Congress of the United States to enlarge the military reservation of Fort Meade, S. Dak., and to construct permanent buildings for the accommodation of a full regiment of cavalry.

Be it resolved by the senate of the State of South Dakota (the house of representatives concurring):

Whereas Fort Meade is centrally located with reference to all the Indian reservations in North and South Dakota, Montana, and Wyoming, upon which reservations there are many thousand Indians; and

Whereas the lines of railroad now in operation and in process of construction will offer transportation facilities over four lines in four different directions, forming a basis for military movements enabling troops to quickly reach any point of trouble from any cause; and

Whereas the hospital records of Fort Meade, as given by the report of the Surgeon General of the United States Army, show that the pure, malaria-free, bracing climate renders Fort Meade the healthiest post garrisoned in America; and

Whereas Fort Meade has a large timber reservation within the Black Hills Forest Reserve upon which there is pine timber and an abundant supply of pure mountain spring water, and also a military reservation 2 miles by 6 miles, which in order to accommodate a full regiment of cavalry requires the purchase of land 2 miles in addition on the north and 2 miles in addition on the east in order to have sufficient drill, target, and maneuver grounds, and obtain Bear Butte Mountain as a target butt, thus furnishing for the garrison and other troops which may from time to time be assembled for maneuvers, including the State militia, the level and rolling prairies, open and wooded streams of water, bluffs and brakes, bare hills and timbered mountains, and all varieties of country for maneuvers; and

Whereas it appears to be the policy of the War Department to concentrate troops so far as possible in complete organizations, it would appear to be economy to provide for a full regiment of cavalry at Fort Meade, inasmuch as more than $1,000,000 has been spent at that post in the last 10 years in permanent improvements in the way of stone, brick, and concrete officers' quarters, barracks, hospital, commissary and quartermaster's storehouses, powder magazine, bakery, firehouse, water and sewerage systems, band barrack and administration building, stables, concrete and macadamized roads, etc., all of the public buildings being sufficiently large to accommodate a full regiment: Therefore be it

Resolved, That we favor and earnestly urge the Congress of the United States, either by direct appropriation or by allotment by the Quartermaster General, to provide the sum of $250,000 for the purchase of lands above referred to, viz, lands lying 2 miles north and 2 miles east of the present military reservation of Fort Meade, S. Dak., for the purpose of enlarging the reservation to a sufficient size to accommodate a full regiment of Cavalry.

Resolved, That we request our Senators and Representatives in Congress to employ their best efforts to compass this end.

—

STATE OF SOUTH DAKOTA,
DEPARTMENT OF STATE, SECRETARY'S OFFICE.

I, Samuel C. Polley, secretary of state of South Dakota and keeper of the great seal thereof, do hereby certify that the attached instrument of writing is a true and correct copy of senate joint resolution No. 11, as passed by the legislature of 1911, and of the whole thereof, and has been compared with the original now on file in this office.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of South Dakota.

Done at the city of Pierre this 4th day of February, 1911.

[SEAL.] SAMUEL C. POLLEY,
Secretary of State.
By J. T. NELSON,
Assistant Secretary of State.

Mr. SHIVELY presented petitions of Jay Council, No. 31, of Portland; Lincoln Council, No. 56, of Terre Haute; and of Lyford Council, No. 70, of Clinton, Junior Order United American Mechanics; and of the Trades and Labor Council of Kokomo, all in the State of Indiana, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented a petition of Browand Post, No. 505, Grand Army of the Republic, Department of Indiana, of Kendallville, Ind., praying for the passage of the so-called old-age pension bill, which was referred to the Committee on Pensions.

He also presented petitions of Local Lodge No. 1899, United Brotherhoood of Carpenters and Joiners of America, of Hobart; of Local Lodge No. 599, United Brotherhood of Carpenters and Joiners of America, of Hammond; and of the Trades Assembly of Logansport, all in the State of Indiana, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. JONES. I present a joint memorial of the Legislature of the State of Washington, which I ask may be printed in the RECORD and referred to the Committee on Pensions.

There being no objection, the joint memorial was referred to the Committee on Pensions and ordered to be printed in the RECORD, as follows:

House joint memorial 10.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

We, your memorialists, the senate and house of representatives of the State of Washington, feeling grateful for the services rendered our country by our soldiers and sailors bravely and heroically risking their lives in the defense and preservation of this country and realizing that those who took part in the War with Mexico and in the Civil War are reaching that time in life when they should especially receive our tender solicitude and care—

We therefore urge upon you the passage of what is known as Senate bill 9476, providing for a pension of not less than $50 per month to any soldier or sailor of the Mexican War or the Civil War, who is now or may hereafter become totally blind, or some such similar bill to Senate bill 9476, granting such relief; and

We would further urge that the proposed act be amended so that "totally blind" should be defined as including "blindness depriving a person of any practical usefulness of his eyes and beyond any aid of optical assistance." Be it

Resolved, That a copy of this resolution be forthwith transmitted to the Secretary of the Senate of the United States and to the Clerk of the House of Representatives of the United States and a copy to Senator PENROSE, of the Senate of the United States, and a copy each to Senators and Representatives in Congress of the State of Washington.

Passed the house January 24, 1911.

HOWARD D. TAYLOR,
Speaker of the House.

Passed the senate January 30, 1911.

W. H. PAULHAMUS,
President of the Senate.

Mr. JONES. I present a joint memorial of the Legislature of Washington, which I ask may be printed in the RECORD and referred to the Committee on Immigration.

There being no objection, the memorial was referred to the Committee on Immigration and ordered to be printed in the RECORD, as follows:

House joint memorial 2.

To the honorable Senate and House of Representatives of the United States:

Your memorialists, the senate and house of representatives of the State of Washington, respectfully petition that—

Whereas during the year ending June 30, 1910, Government statistics show that more than 1,000,000 aliens landed in the United States, of which number more than 600,000 came from southern and eastern Europe and western Asia, the most undesirable emigrants known; and

Whereas the effect of this alien deluge is to depress the wages and destroy the employment of thousands of American workingmen: Therefore be it

Resolved by the house and senate of the State of Washington, That the Congress of the United States be requested to pass such restrictive legislation as will put a stop to this enormous influx of the most undesirable foreigners whose presence tends to destroy American standards of living; and be it further

Resolved, That a copy of this resolution be forthwith transmitted to each Senator and Congressman from the State of Washington for their use in endeavoring to secure the passage of such restrictive legislation.

Passed the house January 19, 1911.

HOWARD D. TAYLOR,
Speaker of the House.

Passed the senate January 24, 1911.

W. H. PAULHAMUS,
President of the Senate.

Mr. DICK. I present a telegram from the chairman of the executive committee of the Ohio State Grange, which I ask may be read and referred to the Committee on Foreign Relations.

There being no objection, the telegram was read and referred to the Committee on Foreign Relations, as follows:

COLUMBUS, OHIO, *February 7, 1911.*

Hon. CHARLES DICK,
United States Senate, Washington, D. C.:

The Ohio State Grange stands opposed to any reciprocal relations that fail to protect the agricultural equal with other interests. Therefore we are opposed to the Canadian reciprocity treaty as now proposed.

L. G. SPENCER,
Chairman.
EUGENE F. CRANSE,
Secretary of Executive Committee Ohio State Grange.

Mr. BULKELEY. I present a telegram from the master of the Connecticut State Grange, which I ask may be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the telegram was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

WILLIMANTIC, CONN., *February 6, 1911.*

Hon. MORGAN G. BULKELEY,
Capitol, Washington, D. C.:

Fourteen hundred grangers in Connecticut protest against the so-called Canadian reciprocity treaty. We, as farmers, do not want to be discriminated against. Our motto, "Protect the American farmer or protect no one."

L. H. HEALEY,
Master, Connecticut State Grange.

Mr. BURKETT. I present a telegram from the Legislature of the State of Nebraska, which I ask may be printed in the RECORD and referred to the Committee on Pensions.

There being no objection, the telegram was referred to the Committee on Pensions and ordered to be printed in the RECORD, as follows:

LINCOLN, NEBR., *February 7.*

Senator ELMER J. BURKETT,
Washington, D. C.:

I am instructed to transmit the following resolution passed to-day by the Nebraska house of representatives. Letter follows:

"*Be it resolved by this Nebraska house of representatives*, That we contemplate with satisfaction and approval the action taken by the House of Representatives of Congress of the United States upon a measure therein pending, known as the Sulloway bill, providing for service pensions for surviving Civil War veterans, and we do hereby memorialize and petition the Senate of the United States to concur in the action of the House of Representatives in this behalf."

HENRY C. RICHMOND, *Chief Clerk.*

Mr. BURKETT. I present a telegram from the secretary of the State Senate of Nebraska, which I ask may be printed in the RECORD and referred to the Committee on Pensions.

There being no objection, the telegram was referred to the Committee on Pensions and ordered to be printed in the RECORD, as follows:

LINCOLN, NEBR., *February 8, 1911.*

Hon ELMER J. BURKETT,
United States Senate, Washington, D. C.:

Following resolution unanimously adopted by Nebraska state senate to-day, and by its direction transmitted to you to be presented to Senate of United States:

"*Resolved by this senate*, That we contemplate with satisfaction and approval the action taken by the House of Representatives of Congress of the United States upon a measure therein pending known as the Sulloway bill, providing for service pensions for surviving Civil War veterans, and we do hereby memorialize and petition the Senate of the United States to concur in the action of the House in this behalf."

WILLIAM H. SMITH,
Secretary State Senate.

Mr. PILES presented a joint memorial of the Legislature of the State of Washington, which was referred to the Committee on Pensions and ordered to be printed in the RECORD, as follows:

House joint memorial 10.

To the honorable Senate and House of Representatives of the United States of America in Congress assembled:

We, your memorialists, the senate and house of representatives of the State of Washington, feeling grateful for the services rendered our country by our soldiers and sailors bravely and heroically risking their lives in the defense and preservation of this country, and realizing that those who took part in the war with Mexico and in the Civil War are reaching that time in life when they should especially receive our tender solicitude and care;

We therefore urge upon you the passage of what is known as Senate bill 9476, providing for a pension of not less than $50 per month to any soldier or sailor of the Mexican War or the Civil War who is now or may hereafter become totally blind, or some such similar bill to Senate bill 9476, granting such relief; and

We would further urge that the proposed act be amended so that "totally blind" should be defined as including "blindness depriving a person of any practical usefulness of his eyes and beyond any aid of optical assistance. "Be it

Resolved, That a copy of this resolution be forthwith transmitted to the Secretary of the Senate of the United States and to the Clerk of the House of Representatives of the United States, and a copy to Senator PENROSE, of the Senate of the United States, and a copy each to Senators and Representatives in Congress of the State of Washington.

Passed the house January 24, 1911.

HOWARD D. TAYLOR,
Speaker of the House.

Passed the senate January 30, 1911.

W. H. PAULHAMUS,
Speaker of the Senate.

Mr. PILES. I present a joint resolution adopted by the Legislature of the State of Washington, which I ask may be printed in the RECORD and referred to the Committee on Foreign Relations.

There being no objection, the joint resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

House joint resolution 2.

Be it resolved by the house (the senate concurring), That the people of the State of Washington, through their legislature now assembled, most emphatically and earnestly protest against the Federal Government of the United States assuming or attempting to assume the jurisdiction and control of any of the fisheries within the territorial limits of the State of Washington, and we particularly protest against the joint control of any part of said fisheries by the United States Federal Government and the Dominion of Canada, as proposed by a treaty convention between the United States and Great Britain, signed at Washington on April 11, 1908.

The State of Washington hereby reaffirms its title to all the public fisheries within its territorial limits, and insists that it has the exclusive right, by virtue of its sovereignty, to keep, control, and regulate all the fisheries within its borders without Federal interference.

Be it resolved further, That a copy of this resolution be forthwith transmitted to the United States Senators and Representatives from the State of Washington, and that they be hereby requested to use all honorable means within their power to prevent any action of the Congress tending to ratify or make said treaty effective.

Passed the house January 19, 1911.

HOWARD D. TAYLOR,
Speaker of the House.

Passed the senate January 26, 1911.

W. H. PAULHAMUS,
President of the Senate.

Mr. BOURNE. I present a joint memorial of the Legislature of the State of Oregon, which I ask may be printed in the RECORD and referred to the Committee on Agriculture and Forestry.

There being no objection, the joint memorial was referred to the Committee on Agriculture and Forestry and ordered to be printed in the RECORD, as follows:

Senate joint memorial 2.

To the honorable Senate and House of Representatives of the United States of America:

Your memorialists, the Legislative Assembly of the State of Oregon, most respectfully represent that—

Whereas the withdrawal of over 16,000,000 acres of land in the State of Oregon for forest conservation constitutes a serious obstacle to the settlement and development of this State and deprives the State and several counties thereof of vast tracts of taxable lands; and

Whereas these resources are being conserved for the benefit of the people of the whole of the United States; it is therefore inequitable to place the burden of providing these resources so largely upon the people of this State: Therefore, be it

Resolved, That we petition the honorable Congress of the United States to so amend the law under which the national forests are maintained as to give to this State at least 50 per cent of all moneys derived from the lease, use, or sale of any of the resources contained within these national forests.

Adopted by the senate January 27, 1911.

BEN SELLING, *President of the Senate.*

Adopted by the house January 31, 1911.

JOHN P. RUSK, *Speaker of the House.*

UNITED STATES OF AMERICA, STATE OF OREGON,
OFFICE OF THE SECRETARY OF STATE.

I, F. W. Benson, secretary of state of the State of Oregon and custodian of the seal of said State, do hereby certify:

That I have carefully compared the annexed copy of Senate joint memorial No. 2 with the original thereof, which was adopted by the senate January 27, 1911, and adopted by the house January 31, 1911, and that it is a correct transcript therefrom and of the whole of such original.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the State of Oregon.

Done at the capitol at Salem, Oreg., this 2d day of February, A. D. 1911.

[SEAL.] F. W. BENSON, *Secretary of State.*

Mr. BORAH. I present a joint memorial of the Legislature of the State of Idaho, which I ask may be printed in the RECORD and referred to the Committee on Irrigation and Reclamation of Arid Lands.

There being no objection, the joint memorial was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

House joint memorial 4.

To the honorable, the senate and house of representatives of the State of Idaho:

Would respectfully represent and make known that the development of irrigation has been very rapid in the West, there having been millions of acres added to our irrigation area during the last few years;

That the settlement on these new lands has been almost wholly by people from the East, who have practically no knowledge of irrigation; that irrigation farming is an intricate science which requires considerable study; that the interests of the millions of farmers in the irrigated portion of the West, and of the West wholly, demand that these settlers learn irrigation farming in the shortest possible time.

Wherefore your memorialists urgently petition that the Government of the United States provide more liberally for education on the subject of irrigation through the irrigation branch of the United States Department of Agriculture, and, that at some place centrally located in the irrigation belt, a permanent institute be established at which instruction in the subject of irrigation and allied subjects be made a specialty, and that said subjects be there taught to all those who desire instruction therein.

This memorial passed the house of representatives on the 30th day of January, 1911.

CHARLES D. STOREY,
Speaker of the House of Representatives.

This memorial passed the senate on the 30th day of January, 1911.

L. H. SWEETSER,
President of the Senate.

I hereby certify that the within house joint memorial No. 4 originated in the House of Representatives of the Legislature of the State of Idaho during the eleventh session.

JAMES H. WALLIS,
Chief Clerk of the House of Representatives.

STATE OF IDAHO,
DEPARTMENT OF STATE.

I, W. L. Gifford, secretary of state of the State of Idaho, do hereby certify that the annexed is a full, true, and complete transcript of House joint memorial No. 4, by Nihart, providing for a more liberal education on the subject of irrigation through the irrigation branch of the United States Department of Agriculture (passed the house January 30, 1911; passed the senate January 30, 1911), which was filed in this office the 2d day of February, A. D. 1911, and admitted to record.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State.

Done at Boise City, the capital of Idaho, this 2d day of February, A. D. 1911.

[SEAL.] W. L. GIFFORD, *Secretary of State.*

Mr. DEPEW presented petitions of the Chamber of Commerce, the Mercantile Exchange, the Retail Merchants' Association of the Chamber of Commerce, and Manufacturers' Club of Buffalo, the Corn Exchange of Buffalo, and of sundry citizens of Cedarhurst, New York City, Buffalo, Long Island, and Lockport, all in the State of New York, praying for the ratification of the proposed reciprocity agreement between the United States and Canada, which were referred to the Committee on Foreign Relations.

He also presented a petition of the Central Labor Union of Brooklyn, N. Y., praying for the construction of the battleship *New York* in a Government navy yard, which was referred to the Committee on Naval Affairs.

He also presented memorials of the United Irish-American Societies of Brooklyn and Long Island, and of the Wolfe Tone Club of Brooklyn, all in the State of New York, remonstrating against the ratification of the treaty of arbitration between the United States and Great Britain, which were referred to the Committee on Foreign Relations.

He also presented memorials of the Chamber of Commerce of Watertown; the Board of Trade of Carthage; the American Paper and Pulp Association, of New York; of Local Grange No. 583, Patrons of Husbandry, of Central Square; of the Empire State Forest Products' Association, of Watertown; and of sundry citizens of Lawrenceville, Niagara Falls, New York City, and Carthage, all in the State of New York, remonstrating against the ratification of the proposed reciprocity agreement between the United States and Canada, which were referred to the Committee on Foreign Relations.

He also presented petitions of O'Brian Post, No. 65; Holt Post, No. 403; Horsfall Post, No. 90; Walter A. Wood Post, No. 294; Horace E. Howard Post, No. 267; James M. Brown Post, No. 285, Department of New York, Grand Army of the Republic, all in the State of New York, praying for the passage of the so-called old-age pension bill, which were referred to the Committee on Pensions.

He also presented a petition of Local Typographical Union No. 52, of Troy, N. Y., praying that an investigation be made into the condition of dairy products for the prevention and spread of tuberculosis, which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of St. Ann's Branch, No. 24, Catholic Mutual Benefit Association, of Buffalo, N. Y., remonstrating against any appropriation being made for the extension of the field work of the Bureau of Education, which was referred to the Committee on Education and Labor.

He also presented petitions of Local No. 125, of Utica; Local No. 1715, of New York City; Local No. 8079, of Mineville; Local No. 754, of Fulton, United Brotherhood of Carpenters and Joiners of America; the Central Labor Union of Brooklyn; the Central Labor Union of Amsterdam; General Wayne Council, No. 48; Excelsior Council, No. 108; Brooklyn Council, No. 21; Highland Council, No. 5; Rifton Council, No. 36; and America Council, No. 67, Junior Order United American Mechanics, all in the State of New York, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

He also presented a memorial of the Business Men's Association of Auburn, N. Y., remonstrating against the enactment of legislation to prohibit the printing of certain matter on stamped envelopes, which was referred to the Committee on Post Offices and Post Roads.

He also presented a petition of T. D. Welch Division, No. 641, Brotherhood of Locomotive Engineers, of Hornell, N. Y., and a petition of Local Lodge No. 827, Brotherhood of Railroad Trainmen, of Poughkeepsie, N. Y., praying for the enactment of legislation providing for the admission of publications of fraternal societies to the mail as second-class matter, which were referred to the Committee on Post Offices and Post Roads.

Mr. SCOTT presented petitions of Washington Camp No. 27, Patriotic Order Sons of America, of New Creek; of Local Council No. 185, of Wise; of Local Council No. 144, of Arnoldsburg; and of Local Council No. 62, of Junior, all of the Junior Order United American Mechanics, in the State of West Virginia, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. HEYBURN presented the memorial of C. W. Norquist, manager of the Norquist Department Store, of Coeur d'Alene, Idaho, and a memorial of the Idaho Mercantile Co., of Coeur d'Alene, Idaho, remonstrating against the passage of the so-called parcels-post bill, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of Local Union No. 1116, Carpenters and Joiners of America, of Twin Falls, Idaho, praying for the construction of the battleship *New York* in a Government navy yard, which was referred to the Committee on Naval Affairs.

He also presented a petition of 25 citizens of the United States, praying that an investigation be made into the affairs of all wireless telegraph companies doing business in the United States, which was referred to the Committee on Naval Affairs.

Mr. FLINT presented a resolution adopted by the Legislature of California, which was referred to the Committee on Irrigation and Reclamation of Arid Lands and ordered to be printed in the RECORD, as follows:

STATE OF CALIFORNIA, DEPARTMENT OF STATE,
Sacramento, Cal., January 30, 1911.

Hon. FRANK P. FLINT,
United States Senator, Senate Chamber, Washington, D. C.

MY DEAR SIR: I have been instructed by the Legislature of the State of California to transmit to you the following copy of senate joint resolution No. 9, passed on the 24th day of January, 1911:

"Senate joint resolution 9.

"Whereas it appears that California's contributions to the reclamation funds have been very great, and that the State is entitled to a large share of the regular reclamation funds, as provided by the reclamation act; and

"Whereas the Klamath project is among the most worthy in the United States, and its early completion is desirable both to the sections to be developed through its construction and to the United States, to secure the earliest possible return of the construction funds for use elsewhere; and

"Whereas it appears that the unconstructed portions of the Klamath project are to be equally divided between the States of California and Oregon: Therefore be it

"*Resolved*, That our Senators and Representatives in Congress be, and they are hereby, memorialized to use their earnest efforts to secure funds sufficient for the continuous construction of all approved units of the Klamath project, and that they endeavor to secure the cooperation of the Senators and Representatives from Oregon in securing the completion of the Klamath project without unnecessary delay or the elimination of any of its important details, since both States are equally interested in its construction. The secretary of state is hereby instructed to transmit without delay a copy of this memorial to each of the Senators and Representatives of the State of California in Congress."

Respectfully, yours,

FRANK C. JORDAN, *Secretary of State.*

Mr. FLINT presented a petition of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation to increase the efficiency of the consular service, which was ordered to lie on the table.

He also presented a petition of the Chamber of Commerce of San Francisco, Cal., praying for the enactment of legislation providing for the preservation of the forest reservations at the headwaters of navigable streams, which was ordered to lie on the table.

He also presented a petition of the mining committee of the Chamber of Commerce of Los Angeles, Cal., praying for the enactment of legislation providing for the leasing of coal and coal lands in the Territory of Alaska, which was ordered to lie on the table.

Mr. WATSON presented a petition of Custer Post, No. 8, Grand Army of the Republic, Department of West Virginia, of Clarksburg, W. Va., praying for the passage of the so-called old-age pension bill, which was referred to the Committee on Pensions.

He also presented petitions of Washington Camps No. 32, of Capon Bridge; No. 22, of Berkeley; and No. 27, of New Creek, Patriotic Order Sons of America; of Local Council, of Berkeley Springs; of Local Council No. 62, of Junior; and of Local Council, of Arnoldsburg, Junior Order United American Mechanics, all in the State of West Virginia, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. BULKELEY presented petitions of Chamberlain Council, No. 2, of New Britain, and of Ben Miller Council, No. 11, of Danbury, Junior Order United American Mechanics, in the State of Connecticut, praying for the enactment of legislation to further restrict immigration, which were referred to the Committee on Immigration.

Mr. WETMORE presented a memorial of the Rhode Island Society of Friends, remonstrating against any appropriation being made for the fortification of the Canal Zone, which was referred to the Committee on Interoceanic Canals.

Mr. BRISTOW presented sundry papers to accompany the bill (S. 10510) granting an increase of pension to John Calvin, which were referred to the Committee on Pensions.

Mr. SMOOT presented a memorial of sundry citizens of Provo, Utah, remonstrating against the passage of the so-called rural parcels-post bill, which was ordered to lie on the table.

Mr. CLAPP presented a petition of sundry inmates of the Soldiers Home, Minnesota, praying for the passage of the so-called old-age pension bill, which was referred to the Committee on Pensions.

Mr. WARREN presented a memorial of the National Grange, Patrons of Husbandry, remonstrating against the ratification of the proposed reciprocity agreement between the United States and Canada, which was referred to the Committee on Foreign Relations.

Mr. ROOT presented a memorial of the Chamber of Commerce of Watertown, N. Y., remonstrating against the ratification of the proposed reciprocity agreement between the United States and Canada, which was referred to the Committee on Foreign Relations.

Mr. BURKETT presented a petition of Wilson Post, No. 22, Grand Army of the Republic, of Geneva, Nebr., praying for the passage of the so-called old-age pension bill, which was referred to the Committee on Pensions.

He also presented a petition of the Chamber of Commerce and Manufacturers' Club, of Buffalo, N. Y., praying for the ratification of the proposed reciprocity agreement between the United States and Canada, which was referred to the Committee on Foreign Relations.

Mr. OWEN presented petitions of the Maine State Grange, of Maine; of the Board of Trade of St. Albans, W. Va.; of the

Chamber of Commerce of Olean, N. Y.; of the Commercial Club of Covington, Tenn.; and of the Citizens' Commercial Club Co., of Delphos, Ohio, praying for the creation of a national department of health, which were referred to the Committee on Public Health and National Quarantine.

REPORTS OF COMMITTEES.

Mr. PILES, from the Committee on Commerce, to which was referred the bill (S. 9864) to authorize the Controller Railway & Navigation Co. to construct two bridges across the Bering River, in the Territory of Alaska, and for other purposes, reported it with amendments and submitted a report (No. 1103) thereon.

He also, from the same committee, to which were referred the following bills, reported them severally without amendment:

A bill (H. R. 31239) to authorize Park C. Abell, George B. Lloyd, and Andrew B. Sullivan, of Indianhead, Charles County, Md., to construct a bridge across the Mattawoman Creek, near the village of Indianhead, Md.;

A bill (H. R. 30793) to authorize the Fargo & Moorhead Street Railway Co., to construct a bridge across the Red River of the North;

A bill (H. R. 31927) authorizing the town of Blackberry to construct a bridge across the Mississippi River in Itasca County, Minn.;

A bill (H. R. 29715) to extend the time for commencing and completing bridges and approaches thereto across the Waccamaw River, S. C.;

A bill (H. R. 30899) to authorize the Great Western Land Co. of Missouri to construct a bridge across Black River; and

A bill (H. R. 31171) to amend an act entitled "An act to authorize the construction of a bridge across the Monongahela River, in the State of Pennsylvania, by the Liberty Bridge Co.," approved March 2, 1907.

Mr. GALLINGER, from the Committee on Naval Affairs, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (S. 8608) to authorize the President of the United States to place upon the retired list of the United States Navy Surg. I. W. Kite, with the rank of medical inspector (Rept. No. 1104); and

A bill (S. 9271) for the relief of William H. Walsh (Rept. No. 1105).

Mr. LODGE, from the Committee on Foreign Relations, reported an amendment authorizing the President of the United States to extend to the International Congress on Social Insurance an invitation to hold its next triennial congress in the United States, intended to be proposed to the diplomatic and consular appropriation bill, and move that it be referred to the Committee on Appropriations and printed, which was agreed to.

Mr. SCOTT, from the Committee on Military Affairs, to which was referred the bill (S. 7650) for the relief of Thomas N. Boyle, reported it with amendments and submitted a report (No. 1106) thereon.

Mr. BURNHAM. I am directed by the Committee on Claims, to which were referred certain bills, to ask that the committee be discharged from their further consideration and that they be referred to the Committee on Indian Affairs, as they relate to Indian matters.

There being no objection, the Committee on Claims was discharged from the further consideration of the bills, and they were referred to the Committee on Indian Affairs, as follows:

A bill (H. R. 18589) for the relief of W. F. Seaver; and

A bill (H. R. 32264) for the relief of Frances Coburn, Charles Coburn, and the heirs of Mary Morrisette, deceased.

Mr. PERKINS, from the Committee on Commerce, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 31859) to authorize the Chucawalla Development Co. to build a dam across the Colorado River at or near the mouth of Pyramid Canyon, Ariz.; also a diversion intake dam at or near Black Point, Ariz., and Blythe, Cal. (Rept. No. 1112); and

A bill (H. R. 31661) to authorize the Secretary of Commerce and Labor to transfer the lighthouse tender *Wistaria* to the Secretary of the Treasury (Rept. No. 1111).

Mr. PERKINS. I ask that the bills being Order of Business 988, Senate bill No. 10417, and Order of Business No. 967, Senate bill No. 10284, of the same titles, be indefinitely postponed, and that the House bills just reported by me take the place on the calendar.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. BRISTOW, from the Committee on Claims, to which was referred the bill (H. R. 18857) for the relief of Laura A. Wagner, reported it without amendment and submitted a report (No. 1107) thereon.

PUBLIC PARK IN THE DISTRICT OF COLUMBIA.

Mr. SCOTT. I move to recommit to the Committee on Public Buildings and Grounds the bill (S. 5367) providing for the purchase of a reservation for a public park in the District of Columbia.

The motion was agreed to.

MISSISSIPPI RIVER BRIDGE AT ST. PAUL.

Mr. PILES. From the Committee on Commerce I report back favorably without amendment the bill (H. R. 30890) to authorize the Chicago Great Western Railway Co., a corporation, to construct a bridge across the Mississippi River at St. Paul, Minn. I ask that the House bill be substituted on the calendar for Senate bill 10586, a bill for the same purpose.

The VICE PRESIDENT. Without objection, the House bill will be substituted on the calendar for the Senate bill.

Mr. CLAPP. I ask unanimous consent for the present consideration of the House bill.

The VICE PRESIDENT. The Secretary will read the bill for the information of the Senate.

The Secretary read the bill, and there being no objection, the bill was considered as in Committee of the Whole.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. GALLINGER. The Senate bill should be indefinitely postponed.

The VICE PRESIDENT. Senate bill 10586, with like title, will be postponed indefinitely.

HORACE P. RUGG.

Mr. BROWN. I am instructed by the Committee on Military Affairs, to which was referred the bill (H. R. 26722) for the relief of Horace P. Rugg, to report it favorably with an amendment and I submit a report (No. 1110) thereon. I ask for the present consideration of the bill.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration.

The amendment was to add at the end of the bill the following proviso:

Provided, That other than as above set forth no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act.

So as to make the bill read:

Be it enacted, etc., That in the administration of any of the laws conferring rights, privileges, or benefits upon persons who have been discharged honorably from the military service of the United States Horace P. Rugg, who was formerly lieutenant colonel of the Fifty-ninth Regiment New York Volunteer Infantry, shall hereafter be held and considered to have been discharged honorably from the military service of the United States as lieutenant colonel of said regiment on the 17th day of November, 1864: *Provided*, That other than as above set forth, no bounty, pay, pension, or other emolument shall accrue prior to or by reason of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. BROWN. I report back from the same committee for indefinite postponement the bill (S. 9147) for the relief of Horace P. Rugg. It covers the same subject as the House bill.

The VICE PRESIDENT. The bill will be indefinitely postponed.

HANS N. ANDERSON.

Mr. BURNHAM. For the Senator from Arkansas [Mr. CLARKE] I report back from the Committee on Claims, without amendment, the bill (H. R. 20072) for the relief of Hans N. Anderson, and I submit a report (No. 1108) thereon. I call the attention of the Senator from Missouri [Mr. STONE] to the bill.

Mr. STONE. That is a very small bill. I ask unanimous consent that it be put upon its passage.

The Secretary read the bill; and there being no objection, the Senate, as in Committee of the Whole, proceeded to its consideration. It proposes to pay to Hans N. Anderson, for services in carrying the United States mail between the post offices of Davenport, Iowa, and Green Tree, Iowa, from July 1, 1903, to September 15, 1903, $66.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. CULLOM:

A bill (S. 10717) granting an increase of pension to William Hise (with accompanying paper);

A bill (S. 10718) granting a pension to Herman Tichter (with accompanying papers); and

A bill (S. 10719) granting a pension to Robert M. Mann (with accompanying papers); to the Committee on Pensions.

By Mr. SCOTT:

A bill (S. 10720) granting an increase of pension to Harriet V. Tiernon; to the Committee on Pensions.

By Mr. SMOOT:

A bill (S. 10721) for the relief of Henry N. Bird (with accompanying papers); to the Committee on Military Affairs.

By Mr. MONEY:

A bill (S. 10722) granting an increase of pension to Mary Rebecca Carroll (with accompanying papers); to the Committee on Pensions.

By Mr. GUGGENHEIM:

A bill (S. 10723) granting an increase of pension to Patrick G. Murphy (with accompanying papers);

A bill (S. 10724) granting an increase of pension to Harry Jeremiah Parks (with accompanying papers);

A bill (S. 10725) granting an increase of pension to Elmer Howe (with accompanying papers);

A bill (S. 10726) granting an increase of pension to Willis G. Miner (with accompanying paper); and

A bill (S. 10727) granting an increase of pension to James H. Moser (with accompanying papers); to the Committee on Pensions.

A bill (S. 10728) for the relief of Simon P. O'Neil (with accompanying papers); to the Committee on Military Affairs.

By Mr. CRANE:

A bill (S. 10729) granting an increase of pension to James H. Morley; to the Committee on Pensions.

By Mr. BRADLEY (by request):

A bill (S. 10730) for the relief of the estate of Mary H. S. Robertson, deceased; to the Committee on Claims.

By Mr. DICK:

A bill (S. 10731) granting an increase of pension to James M. Dalzell; to the Committee on Pensions.

ASSISTANT PAYMASTERS IN THE NAVY.

Mr. BURNHAM submitted an amendment relative to the promotion of assistant paymasters in the Navy, etc., intended to be proposed by him to the naval appropriation bill, which was referred to the Committee on Naval Affairs and ordered to be printed.

CLAIMS OF GOVERNMENT EMPLOYEES.

Mr. JONES submitted an amendment intended to be proposed by him to the bill (H. R. 26367) to pay certain employees of the Government for injuries received while in the discharge of duty, which was referred to the Committee on Claims and ordered to be printed.

RETURN CARDS ON STAMPED ENVELOPES.

Mr. CLAPP. I send to the desk a letter addressed to my colleague from the national joint committee replying to the Postmaster General's communication of February 6, relative to special return cards on stamped envelopes. I ask that the letter be printed as a document and that 25,000 additional copies be printed. I have compared it with Senate Document No. 809, presented by the Senator from Pennsylvania [Mr. PENROSE] a few days ago, of which 25,000 additional copies were ordered printed. I find that this letter contains very much less material, so that it will very easily come within the cost as restricted by law.

There being no objection, the order was reduced to writing and agreed to, as follows:

Ordered, That there be printed 25,000 additional copies of Senate Document No. 814, Sixty-first Congress, third session, letter national joint committee to Hon. KNUTE NELSON, replying to the Postmaster General's communication of February 6 relative to special return cards on stamped envelopes.

HOUSE BILLS REFERRED.

The following bills were severally read twice by their titles and referred to the Committee on Finance:

H. R. 24885. An act to amend section 3536 of the Revised Statutes of the United States, relating to the weighing of silver coins;

H. R. 24886. An act to amend sections 3548 and 3549 of the Revised Statutes of the United States, relative to the standards for coinage; and

H. R. 30570. An act to authorize the receipt of certified checks drawn on national banks for duties on imports and internal taxes, and for other purposes.

The following bills were severally read twice by their titles and referred to the Committee on Public Lands:

H. R. 26290. An act providing for the validation of certain homestead entries; and

H. R. 32344. An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States or their successors in interest.

The following bills were severally read twice by their titles and referred to the Committee on Commerce:

H. R. 30571. An act permitting the building of a dam across Rock River, at Lyndon, Ill.;

H. R. 31538. An act to authorize the Pensacola, Mobile & New Orleans Railway Co., a corporation existing under the laws of the State of Alabama, to construct a bridge over and across the Mobile River and its navigable channels on a line opposite the city of Mobile, Ala.;

H. R. 31600. An act to authorize the erection upon the Crown Point Lighthouse Reservation, N. Y., of a memorial to commemorate the discovery of Lake Champlain;

H. R. 31648. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River, at Chattanooga, Tenn.;

H. R. 31649. An act to authorize the county of Hamilton, in the State of Tennessee, to construct a bridge across the Tennessee River, at Chattanooga, Tenn.; and

H. R. 31860. An act permitting the building of a wagon and trolley-car bridge across the St. Croix River between the States of Wisconsin and Minnesota.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Military Affairs:

H. R. 31662. An act granting five years' extension of time to Charles H. Cornwell, his assigns, assignees, successors, and grantees, in which to construct a dam across the Niobrara River, on the Fort Niobrara Military Reservation, and to construct electric-light and power wires and telephone line and trolley or electric railway, with telegraph and telephone lines, across said reservation;

H. R. 32082. An act limiting the privileges of the Government free bathhouse on the public reservation at Hot Springs, Ark., to persons who are without and unable to obtain the means to pay for baths;

H. R. 32473. An act for the relief of the sufferers from famine in China; and

H. J. Res. 146. Joint resolution creating a commission to investigate and report on the advisability of the establishment of permanent maneuvering grounds and camp inspection for troops of the United States at or near the Chickamauga and Chattanooga National Military Park.

H. R. 9137. An act to authorize the expenditure of the sum of $25,000 as a part contribution toward the erection of a monument at Germantown, Pa., in commemoration of the founding of the first permanent German settlement in America, was read twice by its title and referred to the Committee on the Library.

H. R. 24746. An act to extend the extradition laws of the United States to China, was read twice by its title and referred to the Committee on Foreign Relations.

EMBASSY, LEGATION, AND CONSULAR BUILDINGS.

The bill (H. R. 30888) providing for the purchase or erection, within certain limits of cost, of embassy, legation, and consular buildings abroad was read twice by its title and referred to the Committee on Foreign Relations.

Mr. LODGE. I am directed by the Committee on Foreign Relations, to which was referred the bill (H. R. 30088) providing for the purchase or erection, within certain limits of cost, of embassy, legation, and consular buildings abroad, to report it favorably without amendment.

Also, I report back from the same committee, Senate bill 10367, precisely as the House bill, which has just been reported. I ask that the House bill may be substituted on the calendar for the Senate bill which I report.

The VICE PRESIDENT. Is there objection? The Chair hears none. The House bill will go to the calendar and the Senate bill will be indefinitely postponed.

CONVEYANCE OF LAND TO FORT SMITH, ARK.

Mr. CLARKE of Arkansas. I ask unanimous consent for the present consideration of Senate bill 10348, which will not provoke any discussion, and unless it is passed here very shortly it will stand very little chance of being considered in the other House, according to my present information.

The VICE PRESIDENT. The Senator from Arkansas asks unanimous consent for the present consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (S. 10348) to cede and sell to the city of Fort Smith, State of Arkansas, a municipal corporation, a portion of a tract of ground adjoining the national cemetery in said city of Fort Smith, State of Arkansas, as described in the act herein.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Military Affairs with amendments.

The first amendment was, in section 1, page 1, beginning in line 3, to strike out "That the United States of America hereby cedes, grants, bargains, and sells to the city of Fort Smith, State of Arkansas, a municipal corporation, the following tract of land," and insert "That the Secretary of War be, and hereby is, authorized and directed, upon the payment by the city of Fort Smith, State of Arkansas, a municipal corporation, of such sum as he may determine to be the reasonable value of the premises, to convey to said city the following-described portion of the national cemetery reserve in the city of Fort Smith, State of Arkansas," and on page 2, line 4, after the words "of the," to strike out "land adjoining the," so as to make the section read:

That the Secretary of War be, and hereby is, authorized and directed, upon the payment by the city of Fort Smith, State of Arkansas, a municipal corporation, of such sum as he may determine to be the reasonable value of the premises, to convey to said city the following-described portion of the national cemetery reserve in the city of Fort Smith, State of Arkansas, to wit: Beginning at a stone which is set approximately at the center of South Sixth Street and at the extreme northeast corner of the national cemetery reserve in the city of Fort Smith, State of Arkansas, for a point of beginning; thence in a westerly direction and along the line of said reserve 157.2 feet to a point; thence in a southeasterly direction 207.6 feet, more or less, to a point in the east line of said cemetery reserve and in the west line of South Sixth Street; thence in a northerly direction and along the line of said cemetery reserve for a distance of 145.5 feet to the point of beginning.

The amendment was agreed to.

The next amendment was, on page 2, after line 14, to strike out the following sections:

SEC. 2. That the said city of Fort Smith, State of Arkansas, shall pay to the United States of America for said land above described the appraised value thereof, as herein prescribed.

SEC. 3. That the said city of Fort Smith, State of Arkansas, shall appoint one appraiser, and the Secretary of War, on behalf of the United States, shall appoint a second appraiser, and these two appraisers shall select a third appraiser, and in the event they can not agree upon a third appraiser, then a third appraiser shall be appointed by the United States district judge for the western district of Arkansas; and said appraisers shall, before entering upon the discharge of their duties as such appraisers, take the oath of office faithfully to appraise the above-described lands, and a majority of said appraisers shall be sufficient to determine the value of said lands, as herein provided. The said appraisers shall each be appointed within 20 days after the passage of this act, and shall proceed at once to appraise said above-described tract of land, and shall file a copy of their appraisement in the office of the Secretary of the War, and also a copy in the office of the district clerk of the United States for the western district of Arkansas, and shall also furnish the city of Fort Smith, State of Arkansas, with a copy of their appraisement. The said city of Fort Smith, State of Arkansas, shall pay the costs of said appraisement, including the per diem of said appraisers, which per diem shall not exceed the sum of $6 per day, and the said city of Fort Smith, State of Arkansas, shall also pay the expenses of said appraisement in additon to said per diem of said appraisers.

SEC. 4. That within 30 days after the appraisers shall file their appraisal with the Secretary of War the said city of Fort Smith, State of Arkansas, shall pay to the Treasurer of the United States the amount found by said appraisers as the value of said land, and shall also within the time pay to said appraisers their per diem and expenses for making said appraisement.

SEC. 5. That upon payment of said sum of money, as herein provided, all right, title, and interest of the United States of America in and to the above-described tract of land shall forever be vested in the said city of Fort Smith, State of Arkansas, its successors and assigns, and upon said payment being made by the said city of Fort Smith, State of Arkansas, the President of the United States is hereby authorized and empowered to execute, issue, and deliver to the said city of Fort Smith, State of Arkansas, a patent for the said tract of land above described.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to convey to the city of Fort Smith, Ark., a portion of the national cemetery reservation in said city."

FORTIFICATION OF THE PANAMA CANAL.

The VICE PRESIDENT. Is there further morning business? If not, morning business is closed. Without objection, the Chair will lay before the Senate a resolution, which the Secretary will state.

The Secretary read the resolution (S. Res. 325) submitted by Mr. MONEY on January 19, 1911, as follows:

Resolved, That it is the sense of the Senate that the Panama Canal should be fortified.

Mr. MONEY. Mr. President, when nearly three weeks ago I offered the resolution which has just been read it was with a purpose of speaking thereon within the limit of at least three or four days; but the day upon which it was offered I was taken sick, and have been confined to my room for over two weeks. I am not now quite able to make the speech which I should like to, but it is useless to postpone my effort any longer, because I do not know that I will get any better. I shall ask the indulgence of the Senate if I do not speak very loud. I do not know when I will conclude these remarks, but I will go on as clearly as I can and as far as I can, and, if I leave things unsaid that I should have said, there is no doubt that they will be much better said by some one following me; or, if they are not said at all, it will be no material loss.

This is a question, Mr. President, that may rank among those of first importance to this country. I will say for what it may be worth that I have given a great deal of study to this matter for more than 30 years. My convictions are very firm, and what I say about the subject is the result of a great deal of thinking on it and all the information that I could muster. Of course there will be much said on both sides.

The United States is about to realize, through its own energies and through its own Treasury, the dream of enterprising spirits for more than 200 years. Some one once said that no man ever looked at the map of Central America without a strong inclination to cut it in two with a pair of scissors at the Isthmus. The United States has desired this canal for a great deal more than half a century. It is within the memory of everyone here that the Clayton-Bulwer treaty, negotiated in 1850, between Sir Bulwer Lytton and Mr. Clayton, our Secretary of State, was extremely distasteful to the whole American people. It is a distinct waiver of the Monroe doctrine—in fact, a nullification of that utterance of Mr. Monroe in 1823—and it introduced into a purely American question a European Nation. The reasons for the ratification of the treaty by the American Senate, which afterwards protested loudly that they did not attach to it the meaning which the negotiators said they did, were two. The first was that there was no surplus capital in America, while Great Britain was redundant and applying her resources in every part of the globe to great industrial works. The second was that the sphere of British influence was rapidly extending in Central America, a country which we had been accustomed to look upon as peculiarly, since the enunciation of the Monroe doctrine, within the sphere of our legitimate influence.

At the time this treaty was negotiated an active diplomatic agent, Sir William Gore Ouseley, was negotiating with several Central American States treaties which we feared were to extend British influence. So, in a treaty in which we admitted Great Britain—very improvidently, in my opinion—into this arrangement, it was proposed that the sphere of her influence should not be extended any further. Upon that point there was a difference of opinion. The American Senate said that it considered that the influence it then had was to be reduced. The British, on the other side, said that it was not to be extended any further; and, unfortunately for our contention, both Sir Bulwer-Lytton and Mr. Clayton joined in notes affirming that their meaning was the one put upon it by Great Britain.

It was then proposed by Great Britain that they would have another convention and amend the treaty. We refused to do that. It was then proposed that they would have a convention and make an entirely new treaty. We refused to do that. It was then proposed to abrogate the treaty, and we refused to do that. Why? Because Sir William Gore Ouseley had not then finished his negotiations with the little republics in Central America; but when he had concluded them it was found that our apprehensions of the extension of British influence was not justified and the result altogether more satisfactory than we had hoped.

It will be recollected that in 1900 a new treaty, called the first Hay-Pauncefote treaty, was negotiated. I am speaking right now upon the point of our rights under treaty obligations, because I have observed in the press that some doubt is thrown upon our right to do as we please about this canal on account of restrictions in our treaties with other countries.

That treaty was ratified by the Senate after one of the most stubborn fights ever made upon a treaty, during which I had something to say quite often. One clause of that treaty forbade the fortification of the canal. Three attempts were made to amend that treaty by striking out that provision. If I recollect aright, one amendment was offered by my distinguished friend from South Carolina [Mr. TILLMAN], I think one by my distinguished friend the senior Senator from Texas [Mr. CULBERSON], and one offered by that distinguished gentleman from Ohio, ex-Senator Foraker, that repealed the clause that forbade the fortification of this canal by America. But when the treaty went back ratified by the Senate of the United States it was repudiated by the British ministry for several reasons, and a new treaty was immediately negotiated. That was promulgated, I think, in February, 1902, and I want to call attention to the fact that that treaty dropped from the text that provision against fortification, and it dropped out also the

words "open in time of peace and war," which had belonged to the other and had been drafted in from the Suez convention of 1888, held at Constantinople. Sir Julian Pauncefote was one of the commissioners in both conventions and was attached, I suppose, to that form of words.

Not only did this treaty with Great Britain give us the right to fortify, according to a reasonable interpretation of the late Hay-Pauncefote treaty with the previous one by striking out the clause forbidding fortification and the other words which I have just mentioned, but a significant illumination is thrown upon the whole transaction by a note of Lord Lansdowne, the British premier, to the British ambassador here. It throws a great light upon the interpretation to be afforded to the last Hay-Pauncefote treaty by the omission which I have mentioned. He expressed his satisfaction with the terms of the new treaty and said, "I am not prepared to deny not only that it is desirable for the sake of preserving the canal open to the commerce of the world, but the United States may find it of supreme importance to fortify the canal."

The other significant historical fact which still further illustrates the meaning of the British negotiations in omitting that provision is in the fact that the British military force that for so many years has been in cantonment on the Blue Mountains above Kingston, in Jamaica, has all been removed, and there is in that island now only a brigadier general with about 200 men doing mainly a sort of guard duty.

A further significant, historical, illustrating fact is that the great naval depot, dockyard, and shipyard at Port Royal, in the neighborhood of Kingston, which was the greatest on the Western Hemisphere, has been totally demolished; its guns have been removed; the property which was salable has been sold; and, further, the second in importance and in strength on this hemisphere, windward about 600 miles, at Santa Lucia, has been totally demolished, the guns removed, the property sold. There is no one there, and it is not even a saluting port. In other words, in the light of this treaty in which Great Britain is more interested than all the other nations of the world put together, save ourselves, we have a free hand to do what we think wisest and best, first for ourselves and then for the balance of the world.

It is evident that Great Britain is relying on the good entente of this country in stripping her island possessions in the Caribbean of her military and naval force and of her defenses, relying upon our good will to take care of her interests in this quarter of the globe.

Now, then, that disposes of the only Nation save one with whom we have any treaty relations whatever on this subject. The other nation is the little Republic of Panama. I shall not go through the history of the secession of Panama, which, in my opinion, is an indelible stain upon American honor, but I will say that she was an independent sovereignty, and when we passed the bill called the Spooner Act she had been recognized by 10 or more of the sovereignties of the world. She was as capable of acting for herself as the oldest and best established state in the world. That state made a treaty with us in which we not only got those concessions which we had hoped for, but more than any American statesman ever dreamed of. We not only got a concession of rights of way, but we received a relinquishment and grant in perpetuity of the sovereignty over a 10-mile strip to embrace the canal.

The language of that treaty does not use the word "cession," and I have found only one writer who has made note of the fact that the word used was not "cession" of this strip, but a relinquishment in perpetuity on the part of Panama and a grant in perpetuity to the United States of sovereignty over it.

The ultimate and legitimate effect is the same as relates to other persons with either phraseology; but that has not been attempted to be explained, and I will offer a brief explanation according to the best of my thought on this subject. A cession of territory is a total relinquishment in every shape, manner, and form without anything whatever, with no particular object in view. But a relinquishment of sovereignty means that the act is done with a particular object and purpose in view between the two contracting parties. That object was the building of a canal and the preservation and operation of that canal for the benefit of the commerce of the world, and in order to enable the United States to do that—in other words, to carry out its treaty obligations with the only two countries with which it is in treaty on this subject—it especially states that the United States may use any military force and erect any fortifications at the termini along the route of this canal that in the judgment of the United States may be good or necessary for its defense and protection.

So, as these are the only two countries in the world with whom we have any treaty relations, it is difficult to conceive how any one can say that we are disregarding any treaty obligations whatever. We are in the line, and we will be delinquent if we do not pursue that line, in erecting fortifications there to preserve this canal for the use of the commerce of the world.

That is the obligation we are under to Panama. That was the consideration—the good and valid consideration—for which she made her relinquishment of sovereignty. That is the good and valid consideration that Great Britain received which eliminated her from a purely American question where she never should have been, and permitted her to divert her resources of military and naval strength in the West Indies to other parts of her world-flung possessions.

Now, then, what are our relations to the balance of the world? We have invited, when this canal shall have been opened and operated, the commerce of the world to pass through it. That is in accord with the spirit of commerce and amity which we have with every civilized country in the world and with some of the half-civilized. This, however, is a guaranty which depends upon the will of the guarantor, to be preserved according to the terms of the treaty with Panama and Great Britain until the interests of the guarantor are affected, and then, like every other nation in all the annals of human history, she must assert her interest.

It has been said over and over again that the friendship of nations extends just as far as their interests go and no further. In this modern and commercial age of the world this is true. There have been magnificent and glorious exceptions in the history of the past, however, where nations generously sacrificed themselves for a friend and ally without any thought whatever of their own interest. But that was the heroic age of the world, Mr. President, which we are not likely to see repeated soon.

Our obligation to the balance of the world is this: That by our invitation they are to use this canal. Some of the reasons are that we want the tolls upon passing ships to help pay the operating expenses and the interest on the money invested. In the next place we want to get something, if we can, out of the passing cargoes or tolls, or whatever it may be, of interest to the people along the Canal Zone. But whenever in case of war it is necessary for us to exercise the powers of sovereignty we shall not hesitate to exercise them.

It has been quite common to compare the great Suez Canal with this as though they were either parallel or one a precedent for the other. It is impossible to take a hypothetical case and get two canals more fundamentally and radically different upon which there is less basis for laying a comparison. They are not to be compared, but contrasted. If the Senate will allow me to make a very brief retrospect, I desire to show as rapidly as I can the history of the Suez Canal. As far back as 1838 Mohammed Ali was the governor of the Pashalic.

He was very anxious, being a far-sighted statesman, to have the canal dug through that isthmus to connect the Red Sea and the Mediterranean. He sought advice in different quarters, and among others he sought the advice of Prince Metternich, who was then perhaps the leading statesman of Europe, the prime minister at the Austro-Hungarian cabinet. He advised him that the work was one, in his opinion, not only not engineeringly and economically feasible, but that it would be worthless to a dependent state unless there could be a guaranty by all the powers of Europe as to its neutrality. Time went on, and as the project began to assume form and the nations of Europe awoke to an interest in it Great Britain realized that it might be an accomplished fact, and true to her own interest, as always, she bitterly opposed the whole scheme of building the Suez Canal.

At that time Mr. Palmerston was in his glory, and so great a man as Mr. Palmerston, speaking upon this subject, said that it was the veriest bubble that ever engaged the speculation of mankind and that it was utterly impossible and impracticable. So acute a man as Benjamin Disraeli declared it was a vagary, that it was impossible, a mere vanity, and that nature would speedily efface by her energies all result of man's work upon that canal. There were other men, however, such men as Mr. Gladstone and, I believe, Mr. Roebuck and John Bright, and probably others whom I can not recall, who insisted that it was practical and would be immensely advantageous to British commerce.

On the other hand, it was replied that it would open an avenue for attack upon India, the greatest of all the British dependencies and the most vulnerable. In addition to this, the British diplomatic agents at Constantinople and Cairo warned the authorities of those countries that if they permitted the canal to be undertaken they might incur the displeasure of Great Britain. But when it was discovered that, in spite of all opposition, the canal would be built, Great Britain became very anxious that neutrality should be observed. The work was begun. A firman was first granted to De Lesseps for the mari-

time canal of Suez. It was built mainly by French capital, and the original stock was only $40,000,000.

In the meanwhile there were several quasi conventions held, discussing tonnage rights, this, that, and the other right, and all protesting that the canal should be free and open and not under the control of anyone. It was represented that Turkey, then called the "Sick Man of Europe," was unable to maintain the canal "free and open;" that Egypt, a mere dependency of Turkey, was utterly unable to do so, and there must be a guaranty of the powers for that purpose. None were more persistent in that cry than Great Britain, and when her commissioners met first, before the final convention of 1888, with the other commissioners, Lord Osborne was careful to instruct the commissioners that they should avoid the word "neutrality" or "neutralization," but insist upon the words "free and open." The meaning of these words in these instructions will become a little plainer when we get a little further down.

In 1878—the canal was opened to the world in 1869—Disraeli, with that acute business instinct which belongs to his race, immediately bought half the shares. In the meanwhile, however, the Pasha had become the Khedive under the royal firman of the Ottoman Porte. Khedive is the Arabic for king. Three years afterwards another firman was granted which made it almost an independent sovereignty. But in the meanwhile the finances of Egypt had become so involved that it required fiscal agents of France and Great Britain to secure anything like financial order, and very soon France was removed from that and Great Britain assumed the control by the consent of the Khedive.

At this point Great Britain, in 1878, acquired at what we might call a nominal price the Island of Cyprus, the most easterly of all the large islands of the Mediterranean and the most convenient to the Suez Canal, and the only one fitted for a base of military operations on account of the extent of its territory and the amount of its products.

In 1814 Great Britain had abandoned the island of Perim; which is in the straits of Bab-el-Mandeb, at the opening of the Red Sea into the Indian Ocean. She resumed the occupation of Perim about the time she acquired Cyprus, and built one of the strongest fortifications in the world on a barren volcanic rock, where there is little water. Then taking possession a little later of the rock of Aden on the Arabic coast, she made there in the crater of an old volcano, where there is also a lack of water, one of the strongest fortresses in the world. In the meanwhile she had the impregnable Gibraltar, at the straits of Gibraltar, which is only 8 miles wide. She had halfway down the Mediterranean the Maltese group, the chief of which, Valetta, is one of the strongest fortifications in the Mediterranean after Gibraltar. Having acquired these advantages, which gave her control of all the approaches to the canal, Great Britain was then willing to consider the canal to be free and open.

It is just as though the United States had built a fortress at the Bay of Limon, or at Colon, or at Panama, or at Gatun, and at every point of vantage along the whole route. No ship could come in and no ship could go out without going under the guns of a British fortress. These Far Eastern fortresses were under the nominal control of the presidency of Bombay.

But that was not all. You recollect the Russo-Turkish War of 1877. Russia was engaged in war with Turkey, and of course Egypt was engaged as one of her dependencies. Great Britain became alarmed, and she wrote an extremely vigorous note to each of the powers, in which she said she would resist with all the forces at her command any attempt on the part of either one in any way to obstruct the free navigation of the Suez Canal. Each of the three hastened to reply that nothing could be further from their intention. That was satisfactory to Great Britain, who then had undisputed control of the Suez Canal.

But to make it still better, some time after, when the Suez convention of 1878, held at Constantinople, met, she secured an abeyance of that clause so that they never have met since, because it did not suit the convenience of Great Britain that they should.

I am now showing the absolute ownership of that canal, not only on account of the stock it represents and the commerce of the canal, but in the way of sovereignty and control.

In 1882 there was a revolt in Egypt against the Khedive by Arabi Pasha. It extended so rapidly that the whole Egyptian army revolted and went over to Arabi and took possession of the delta of the Nile, an almost impregnable government fortress. Finally Great Britain, acting in the capacity of fiscal agent and comptroller of the affairs of Egypt, and also as the good friend of the Khedive, took, in her name, military possession of Egypt. She sent her fleet and she sent her army. There followed the massacre of Alexandria, which fired the world a little.

Then what did Great Britain do, who had insisted so strongly upon neutrality? So soon as she found that the canal would be built in spite of her, she submitted to the houses of Parliament a proposition to build a parallel canal at the cost of the British Government, and it was rejected by the House of Commons. Then Great Britain lands her forces there, and Arabi, who was the bosom friend of De Lesseps, was assured by that gentleman that he need take no concern about the canal. It was protected by all the agreements about its neutrality, with its free and open water, and so forth. But Great Britain paid no more attention to that treaty than she would to this one were she at war with us. In time of war nothing is truer than the old Latin proverb, "Inter arma silent leges." That is just as true to-day as when it was first uttered. At the first cannon shot all pacts and provisions fly; they are dissipated; the treaties go into thin smoke.

Great Britain not only landed her troops, but, in order to reduce Arabi, took possession of that canal whose neutrality she had so strenuously insisted upon. For 19 days she held it against the world. No opposition was made whatever, and, of course, Arabi was very speedily brought to subjection.

That is the history of the Suez Canal. Is there any parallel between that case and the one we have in hand? But, further, that was a case of a canal cut through territory that belonged to an absolutely incapable country, a sovereign who could make all the guaranties in the world, but not enforce a solitary one of them. Consequently the world, acknowledging that fact, at the petition of the sovereign, made its universal guaranty according to the convention of Constantinople.

Now, what is the case here? Instead of a canal 100 miles long over a dead level and almost connected by two navigable lakes, we have a canal that has some physical difficulties, the Culebra cut, principally, and the Chagres River, which rises 25 feet in two hours, and whose waters must be impounded or it will destroy at every freshet the whole canal. These are physical and engineering difficulties that have happily been overcome, I must say, much more rapidly than I had ever anticipated. The great trouble which I had anticipated all along has been entirely overcome, and that is the sanitation of the Canal Zone. That was a work that I thought impossible. It has been as completely done as in any ward of this or any other city in the United States.

Now, then, we are here with a canal across our own territory. It is neutral water. In what sense? Because anybody says it shall be neutral water? The law of nations has long since made neutral water all that which lies inside the country between the headlines of capes and 3 miles from the coast line. Why 3 miles? Because the only point in having an agreement among nations for neutrality was that neutral sovereigns power should not be injured in a contest between two belligerent powers.

So, while virtually a belligerent ship comes into our port at New York or Baltimore and is followed in by another on the other side of the contest, it is neutral waters, not that we are interested to take care of them, but because we are taking care of ourselves. In other words, there must be no combat waged that can endanger the life or the property of the neutral sovereign. It was fixed at the 3-mile limit, because when this became the understanding of nations 3 miles was the utmost limit of cannon range. Now it is 15 and 20 miles. But they fixed it and it is there yet.

It is true that for the understanding of nations there is no sanction whatever. There are no sanctions to international law. It is only the judgment of mankind that can reproach or rebuke a nation, unless nations combine to coerce, and they can do that in any event.

It is true that when a belligerent enters neutral water another belligerent may do him an injury, and then the injured Government can call upon the neutral power to make good that damage. There is great difference between "neutralized" and "neutral" and "free and open water." You will not find in the whole Suez convention the word "neutral," the word "neutrality," or the word "neutralization." The care of Lord Osborne omitted this phraseology and used the term "free and open."

The difference between neutrality, neutral, or neutralized waters is this. The neutral water is that which lies wholly within the territory of a sovereign or within 3 miles of a coast line. That is neutral water by the agreement of nations.

Neutralized water is that which is made so by a pact between a certain number of nations able to enforce it. There is an enormous difference between neutralized territory and neutralized water. We have some examples of neutralized

territory. Neutralized water and neutralized territory never happen to a power that is independent and able to take care of itself. It is always a weakling, a dependent one, that lives upon sufferance and the consent of its neighbors and not of its own right and its own strength to maintain it.

We have the little Duchy of Luxembourg, the most thickly populated, I believe, of the little duchies in Germany. That is neutralized, because, not desiring to come into the German union, it desired its independence, and it can not exist unless it is neutralized by neighboring powers.

We have the example of Belgium, and its neutralization arose in an extremely peculiar way, which shows how great nations regard the rights of one of their number. There was an insurrection in the High Netherlands, a province of Holland, against the King of Holland. After a vain effort of many years to put it down he appealed to the neighboring powers to put it down and reduce to their allegiance the revolting subjects. They held a meeting at Berlin for that purpose, and the result was not to reduce his revolting subjects to allegiance, but to set them up independently in a little kingdom that they had made, and they called it the Kingdom of Belgium, which is the most thickly populated country in Europe, I think 10,000 or 11,000 square miles and 6,000,000 people. That is neutralized because it is intended as a buffer against nations that are able to fight and to take care of themselves and to maintain their independence. All the nations have so far observed that neutralization. The next was the little confederation of Switzerland of about 15,000 square miles, flung among the Alps. It began with what were called the three forest Cantons, the old Grison Canton, Uri, and Schwiz. There were added to it other Cantons like Zurich and Basel, and on until to-day there are 22, 16 of them speaking the German language mainly, 4 speaking the French mainly, and 2 speaking Italian, and 1 the ancient Romanische.

They are held together there with a full spirit of independence and liberty, but because the nations of Europe have consented to their existence as another buffer sovereignty they have neutralized their territory and nobody yet in the face of the guarantors has dared to violate that neutrality.

We had a rather singular example in the conclusion of the Franco-Prussian War. After the disaster at Metz and Sedan, Gen. Bourbaki, a French general of distinction, collected a very considerable army, amounting to about 180,000 men, on the upper Loire. He moved down and attacked Belfort, held by the Germans, with tremendous fury. He was defeated with great loss, and then retreated to Besançon, and then he went over into Switzerland. He was pursued by the Germans, but they, however, never went beyond the frontier. Switzerland called her citizen soldiery, as she had no standing army, to go to the frontier and defend her rights. But it was unnecessary, the Germans respecting it. Another French general was compelled to take refuge a second time in Switzerland, and still the neutrality was respected by the Germany Army.

The reason is obvious. Germany would lose more by violating the neutral territory than she would gain by it. That is all.

Another difference between neutral territory and neutral or neutralized water is this: Everybody is invited to keep out of the neutral land. Everybody is invited to come into the neutral water.

Now, we have this canal about finished. The question is how are we to carry out our implied obligation or our moral obligation, as well as the treaty obligations, we have to keep it open to the commerce of the world. I do not suppose there is a man in the Senate who supposes for one minute that the Government of the United States as a government undertook this stupendous work, costing nearly $400,000,000, purely for its commercial value.

It is perfectly obvious that for 12 years at least this tremendous exaggeration about the commercial importance of the canal was just about as much overdrawn as it was possible for figures to make it. It was done by agents and attorneys of what was once called the Maritime Canal Co., that had a certain concession from Nicaragua. That concession expired, or was denounced as nonuser by the President of Nicaragua, and the next year denounced by the Congress of Nicaragua. The furniture was sold for office rent in New York. The few dredges and wooden houses rotted at San Juan del Norte and the thing was defunct. Yet efforts were being made in this Chamber to vote that concern $11,000,000 and to build that canal.

Mr. President, if I am not very much misinformed about it, and I have been thinking about it a good deal, the Government is not for any money that we can make out of this transaction. In my opinion, the use of it has been extremely overstated.

It will be of great commercial value to the United States. The next power that will use it in extent of tonnage and sails will be Great Britain. Yet it is only an alternate route of Great Britain to her South Sea and Indian Ocean possessions. It is the alternate route. Her natural route is by Suez. So is that the route, and the nearest route, and the best route of all Europe to any part of India, to all Australia, to the Straits Settlements, and to such southern ports as Shanghai and Canton and as far up as Peking. It is the shortest and the best route. Then, why should they go a longer and worse route in order to pass through Panama? The Suez Canal tolls are as cheap now as we will ever make ours.

One of the reasons is that there are no ports of call upon our route at all, and there will be only one port of call that will be at all easy. On the other route you have cities from the Straits of Gibraltar upward along the whole western coast of Europe to the Baltic, and down along through the whole Mediterranean, which is 2,540 miles long. Then you go to Alexandria, an old Egyptian city, and use the canal 100 miles.

It is 1,350 miles before you get out of the Red Sea into the Indian Ocean. Then the first great city is Bombay. It is only 6,000 miles from London to Bombay. It is only about 1,700 miles farther to Calcutta, the capital of the Empire, the extreme northeastern city, and it is the greatest in population and in business.

So there is no inducement in the world for any nation to come to this canal with commerce except Great Britain.

I do not mean there will not be tramp steamers and transient sailings. They are going everywhere. You can not tell where a chartered steamer will go. The commerce of the world to-day is carried by 92 per cent of steamers and a little less than 8 per cent of sailing vessels, and the disproportion is every day increasing on account of the shortness of the trip and the certainty, which means lessening of interest on sight drafts and on insurance.

Then we have a canal that is good for us commercially, good as an alternate route, mind you, for Great Britain, because Australia is nearer to Great Britain by Suez than it is by Panama. As far as that is concerned, she can send her freight steamers through the Straits of Magellan, a most difficult piece of water to navigate, one of the most difficult in the world, and reach Santiago de Chile or Valparaiso in a less number of miles than she can to sail through Panama and go down the west coast. She can get to Callao, the port of Peru, in almost the same number of miles.

What did we go into this enterprise for? Simply for its strategic value, and nothing else. When we found a possession on our west coast extending into a great empire building up great commercial cities and fronting Asia, we began to realize that we are in a position where we would be caught on either flank, and put to extreme disadvantage in case of war. As to whether we will ever have a war, every good man will hope that we will not, but war is incident in the life of every sovereign people. All this peace that the millenianites are talking about to-day is the baseless fabric of a vision. It is delusive. We will not have universal peace until God Almighty shall take man and resolve him into his original constituent elements, and eliminate every single chemical trace of greed, selfishness, or ambition; and when we get to that stage of human life we will need no fortifications of canals; we will need no treaties to neutralize these waters; we will have no war; we will need no Government. We will not even need a rule to bind together human society, because by that time individual man will be so perfect altruism will carry him to a plane where there is no compulsion of the many over the one, but each one operates by his own motion to do the best that can be done, and no longer is any government necessary.

But that is a condition not to be realized in my or your time, Mr. President, nor for many years and cycles of ages to come.

As I said, it is a mere dream, laudable, perhaps, in those who indulge in it. It happens that the people who are opposing this fortification in the main are of the best people in the world, but they are the emotional class of people; they are professors in universities, bishops, preachers, female writers, male writers, and effete statesmen—those who never were combatants and never will be with a million of opportunities. They are indulging in this daydream; but no practical legislative mind can consider these things for one single moment.

We have dug this canal for strategic advantage. In case of attack from either the east or the west we can concentrate our navies on the inner line of action, which all military men say is the safest and best, because it admits of the most rapid concentration; and Napoleon's first maxim was to "get there first with the most men." It will make unnecessary a fighting fleet of the size that would be essential if there were no canal. It would save us hundreds of millions of dollars in the defense of our Pacific coast.

If, on the score of economy, these fortifications are not to be built, then we ought to demolish and dismantle Fortress Monroe and the Ripraps down there, making those neutral waters; we ought to dismantle every fortress in New York Harbor, in Boston Harbor, and all the way around our whole seacoast, because it would be very much cheaper to do that.

The substitute offered by opponents of fortification for this defensive work is the Navy. Well, now, let us see about that. The cost of the proposition to fortify the Panama Canal is reduced to $12,000,000 and a little over, with an initial sum of $1,000,000, it being highly desirable that the fortifications should be begun and be finished almost synchronously with the completion of the canal.

The expense of one battleship, which the gentlemen who want no fortification tell you should defend that canal, is just $12,000,000, according to an estimate submitted here the other day—$11,983,000, I think it was—but my friend here, who is on the committee, knows; in other words, fortification will equal the cost of one battleship, which will last 15 years. Not only one battleship would be required, but one battleship at least at each end of the canal, if not two at each end, and no battleship will be stationed there unless reinforced by gunboats, torpedo boats, torpedo-boat destroyers, and a cruiser, because you can not make an army of cavalry alone or of artillery or of infantry, but you have got to have a distribution of the arms of the service; and the same is true of naval warfare.

Then the value of a navy lies in its absolute mobility, its ability to go instantly from this point to that, wherever it may be most needed. A fort can not go; big guns can not go unless they have the deck of a ship for their gun platforms. So it is deteriorating from the strength of the navy to keep it behind to defend a land work. It is just reversing the rule of warfare.

I am not a military man, but it is my opinion that the three great strategic points to-day are the Strait of Gibraltar, the Suez Canal, and the Panama Canal. I mention these waterways, because, first, they are open to the world, and for the further reason that it seems to have become an obvious fact that the warfare of the future will be very much more on sea and less on land than it ever was before. That is the tendency. Hence the desperate race for predominance in the machinery of war on the water.

If we are to preserve this line of strategy, which is necessary to the existence of the territorial integrity of the United States, we have got to protect this canal so that we can use it for ourselves and for others.

The fortification of the Panama Canal is not an infringement of any treaty; it is not an infringement of any moral obligation to the world, but it is simply a provision made for the safety of this Republic and the maintenance of the waterway for the commerce of the whole world.

Has anybody ever suggested to the German Emperor or to the German Reichstag that the Kiel or the Kaiser Wilhelm Canal should be neutralized? Has any American advocate of neutralized waters, by the consent of every government, ever addressed his mind for a minute to that thought? No nation has had the temerity to say to the German Empire that they would like to have the Kiel Canal neutralized. It would be considered an insult, which would be immediately resented.

Not only that, but the strongest fortification in all Europe—I might perhaps except Gibraltar—is on the Baltic, at the mouth of the Kiel Canal, and the next most important, probably, very near the North Sea, at the entrance to that canal, and no warship can go through there at all without a special permit from the German Government.

That canal runs through German territory. The Panama Canal runs through American territory. They were both built at some cost, but ours is very much more expensive; yet no one suggests that Europe will neutralize the Kiel Canal. No one says that they shall not put up a fortification there. Then why do they suggest that to us? Are we less able to take care of ourselves than is Germany? We have larger resources; we have a very much larger population; we have everything that goes to the immediate exertion of the fighting faculties of a great people in a contest with any nation of the world on any question; and why should the United States be insulted by a proposition from its own people or from the English people that their water, in their own territory, over which they have undisputed sovereignty, should be neutralized by the consent of other people? I consider it an insult to the American Nation.

Mr. President, the Panama Canal will not only be the inner line of action for the concentration of ships in time of war, but it will be the point of safety and for recruiting and repairing our Navy in the Caribbean and in the Pacific; it will be the key to any situation of war in the future. Everybody understands that, I hope, and if they do not they may be brought to a realization of it much more speedily than they think.

We had a document submitted—it seemed to me rather improvidently—by the Secretary of War to the House of Representatives. It was returned to that gentleman, with the information that the House would not receive such a paper. Immediately they got up what was called a war scare, about Japan, as usual, which I suppose was mainly the enterprise of our bright newspaper men more than anything else. Then hastily the book or pamphlet, or whatever it was, was ordered withdrawn and not to be published. In my opinion that was a great mistake. Every word of it ought to have immediately been published. If we are not prepared, it is very much better that the public should know it. To hoodwink and blind the people of the United States as to their lack of preparation is criminal. What defeated the French in the Franco-Prussian war was that the Marquis de Boeuf, the minister of war, constantly deceived Louis Napoleon as to the condition of his army chest, of his supply chest, and of his forces in the field.

If there is anything wrong, we ought to know it. We have the courage to undertake to remedy whatever is wrong, and we have the ability to do it. So far as Japan is concerned, the scare, of course, is located there. Well, it did not settle any future difficulty with Japan because this report was suppressed and information, which I suppose was true or it would never have been presented to either House of Congress, was denied to the American public. They have a right to know about those affairs. They are the sole source of authority in this country, and we are but their servants to do their bidding. The suppression of the report does not at all remove the possibility of war. I am not an alarmist; I am rather an optimist; I am of a cheerful disposition; and I am so sanguine that I always believe that my side is going to win, whether it has any chance or not; but with the present policy of expansion and of subjugation, to which we seem determined to adhere, war is one of the probabilities of the future, with not long to wait.

There is a tendency of an ethnological sort going on throughout the whole world that has been remarked, I suppose, by many of you, of the segregation of races of men into family groups. Already you hear "Asia for Asiatics"—the Mongolian family—and we are told by the best Japanese orators and statesmen and writers that the family instinct is the strongest power in Japan. They are grouping together everywhere. The brown people are going to themselves; the white people are steadily going to themselves; the black people will go to themselves, if they are allowed to do so; but, unfortunately, with a continent covering nearly 12,000,000 square miles, with a Negro population of over 100,000,000, there is not a solitary independent Negro State in the whole of it, and those 100,000,000 are under the subjection and control of a few thousand white people who have simply partitioned out and divided the whole continent among themselves. They have got together with a vengeance there, and they would elsewhere if they knew how to do it and could do it. It is that family feeling that may excite some difficulties.

You are still persisting in maintaining a sovereignty over the Filipinos. Of course I do not want to argue that question, and I am not going into it at all. A few nights ago I heard an after-dinner speech made by a very distinguished gentleman, who said that if we deserted our obligations to the Filipinos now and abandoned them it would be an act of cowardice. I can not see how the question of courage or the lack of it is involved. It is not a question of courage, but it is a question of common sense, of prudence, of wisdom, of statesmanship, of what is best for America; and as for our duty and obligation, while we have paid Spain $20,000,000 to get that duty and we spent some hundreds of millions of dollars in whipping the Filipinos in order to clinch that duty upon ourselves, we do not seem to be able to rid ourselves of it.

But, at any rate, there is a possibility of war. With wise forecasting, we have the Hawaiian Islands, a mid-ocean outpost that I hope will be strongly fortified. If so fortified, it will save us ten times as many millions in the fortification of our western coast. All the possiblities in the Orient simply emphasize the fact that Hawaii will be the great strategic point of the United States in its future wars.

Mr. President, as to the cost of the maintenance of the fortifications of the canal the answer is so ready, so obvious, and so very simple that it looks ridiculous that the question should ever be asked at all. As I have said, one battleship will pay for all the fortifications, and with fortifications that battleship will be ready to do twice the work elsewhere that it could do grinding her own beef bones in the harbor at Panama.

I have, Mr. President, thought very often of the condition in which we find ourselves as we extend far afield our line of fortifications and our sphere of influence, of the renewed responsibilities, as they are called, and moral obligations that are all the time resting upon us, and how entirely unsuitable are the preparations we are making to meet and carry out those

responsibilities. To neglect this one point would be worse than criminal, in my opinion.

Mr. President, I have only made a few observations on this question, but it seems indefinitely to expand and, like the mirage of the desert, to precede the traveler and lead him on and on; but I find that I am physically unable to speak longer.

Mr. ROOT. Mr. President, I wish to express my most decided and hearty concurrence with the conclusions which the Senator from Mississippi [Mr. MONEY] has enforced with the most interesting and instructive observations which he has addressed to the Senate. It seems to me that it would be as reasonable to leave one's door unlocked in the city because one is in favor of honesty as to leave this canal undefended because we are in favor of peace.

We must not forget, when the project of neutralizing the canal is proposed, that all the unjust wars in the world, in modern times at least, have been waged notwithstanding treaties of peace. No treaty can be made for the protection of the Panama Canal that would have a more binding effect than the treaties which exist to-day and the treaties that have heretofore existed, which have ineffectively interposed their feeble barriers against the wars of the past. When we once concede that there is to be defense, the question as between defense by fortifications upon land and by ships of the Navy becomes a technical question and not a question of principle or policy.

I am bound to say that the idea of defending the Panama Canal by stationing a battleship at either end and expecting a thousand American sailors to live inclosed in steel under the sun of the Tropics is visionary and absurd.

I do not know, Mr. President, that this question is as yet before the Senate in a form for action, but whenever it does come up for action my vote will unhesitatingly be for the proper fortification of the canal.

SENATOR FROM ILLINOIS.

Mr. CULLOM. Mr. President, I have been expecting for two or three days to say a few words about my State and myself. I do not think it is worth while for me to say anything, but I feel as though my own State would expect me to do so.

Mr. President, I have been silent, as Senators know, while the discussion has been going on concerning the right of my colleague to retain his seat in the Senate. No matter what Senators may think, personally I did not believe it becoming on my part to discuss the case publicly or privately, and I do not intend to do so now. When the time to vote comes I shall vote according to the dictates of my own conscience. However, in the debate which took place last week the honor and integrity of my State were brought into question, and even my own election as a Senator from the State of Illinois referred to on the floor of the Senate, and consequently I deem it my duty to speak.

Senators will pardon me for first saying a few words in reference to my several elections to the United States Senate.

I was elected governor of Illinois in 1876 and reelected in 1880. Two years later, in the middle of my second term as governor, I was elected to the United States Senate as the caucus nominee of the Republican Party in the legislature, and on the joint ballot received every Republican vote with the exception of one member. That one was against me because he thought there was a constitutional objection to my election. Six years later I was reelected without opposition, receiving the caucus nomination and the vote of every Republican in the legislature. Again, at the expiration of my second term, I was a third time elected under similar circumstances. In 1900 I had a more serious contest, Hon. John R. Tanner being the principal candidate who, with one or two others, opposed me; but they all withdrew before the caucus met, and my name was the only one presented to the caucus, and I received every Republican vote in the legislature. The fifth and last time I was elected I went before the people on a direct primary, carried the popular vote by some fifty thousand majority, and carried a substantial majority of the senatorial districts, whereupon my opponent withdrew and I was again, without opposition, the Republican caucus nominee and received the entire Republican vote on joint ballot. On these five different occasions, when the people of Illinois so signally honored me, there was not even the slightest suggestion on the part of anyone of corruption or wrongdoing in the legislature in connection with my election. As a candidate for the legislature, as a candidate for Congress, as a candidate for governor, as a candidate for United States Senator, no one has ever charged that a single dollar was used to influence any voter to vote for me or to corruptly influence any member of the legislature to vote for me. I have always been a party man, and am now, and have always received the support of my party.

These are the facts. They speak for themselves. That is all I have to say concerning myself.

Now, a few words in reference to the State of Illinois. It has, as has been said here, had a great history. Admitted to the Union in 1818, its growth in population and wealth and its progress in education have been marvelous, and it is to-day an empire with a population of over 5,600,000, the third State in the Union, with a city which has grown within the past few years to be one of the foremost cities of the world. It has given to the Nation some of the greatest names in our national history—Lincoln and Douglas, Grant and Logan, Trumbull and Chief Justice Fuller, and many others. Its population, particularly its rural population, is largely composed of those and the descendants of those who came from the best classes in the New England and Eastern and Southern States. Senators have expressed great concern over its integrity and honor. Probably I have its integrity at heart to a greater degree than any Senator in this body. In my judgment, the State of Illinois needs no defense. Its people, as a whole, are as honest and honorable as the people of any other State in the Union. That corruption has existed on the part of certain members of the legislature should not affect the honor and integrity of the whole State and besmirch its fair name throughout the Nation.

If Illinois is to be condemned on account of corruption in its legislature, there are few of the great States in the Union not subject to similar condemnation. My record in public life for the past 50 years will show that I have always opposed corruption, and I do not hesitate to say now that anyone guilty of corruption, whether in the Legislature of Illinois or elsewhere, should be prosecuted and punished to the full extent of the law, but it is manifestly unfair and unjust to hold up the State to scorn on account of the corruption and wrongdoing of a comparatively few of its public officials.

Notwithstanding the uncalled-for sympathy expressed for Illinois here in the Senate, I want to say that the State will take care of itself and will unquestionably sweep away any corruption that may exist. I am not here to apologize for Illinois; I take great pride in representing it in this body, and I consider that its people by electing me for five successive terms have honored me to a greater degree than by an election to the highest office within the gift of the Nation.

INTERNATIONAL PEACE ENDOWMENT.

Mr. ROOT. I ask unanimous consent to call up the bill (S. 10491) to incorporate the Carnegie Endowment for International Peace. It could not be incorporated under the general statute, because of the limitation upon the amount.

Mr. BAILEY. Does this confine it to a District of Columbia incorporation?

Mr. ROOT. Yes. I propose to offer a committee amendment which will confine it to a District of Columbia incorporation. The bill has been drafted following the lines of several similar acts which have been passed by both Houses.

Mr. BAILEY. I myself have no objection if it is a District of Columbia corporation. From what committee does the bill come?

Mr. ROOT. It comes from the Committee on the Library.

Mr. BAILEY. I have no objection, with the understanding that it is a District of Columbia corporation.

The PRESIDING OFFICER (Mr. BRANDEGEE in the chair). Is there objection to the request of the Senator from New York for the consideration of the bill?

Mr. KEAN. Let the bill be read.

Mr. JONES. What is the request?

The PRESIDING OFFICER. The Senator from New York asks unanimous consent for the immediate consideration of a bill, the title of which will be stated.

The SECRETARY. A bill (S. 10491) to incorporate the Carnegie Endowment for International Peace.

Mr. JONES. I object to its present consideration.

The PRESIDING OFFICER. Objection is made, and the bill goes over.

CERTAIN LANDS IN MINNESOTA.

Mr. NELSON. From the Committee on Public Lands, to which was referred the bill (H. R. 32222) authorizing homestead entries on certain lands formerly a part of the Red Lake Indian Reservation, in the State of Minnesota, I report it favorably, with an amendment, and I submit a report (No. 1109) thereon. It is a local bill, and I ask for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Public Lands with an amendment, on page 1, line 8, before the words "four dollars," to strike out "not less than."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time, the bill was read the third time, and passed.

GUILFORD COURT HOUSE BATTLE.

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 5379) for the erection of a statue of Maj. Gen. Nathanael Greene upon the Guilford battle ground, in North Carolina, which were to strike out all after the enacting clause and insert:

That the sum of $30,000 be, and the same is hereby, authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the erection of a monument on the battlefield of Guilford Court House, in Guilford County, N. C., to commemorate the great victory won there on March 15, 1781, by the American forces commanded by Maj. Gen. Nathanael Greene, and in memory of Maj. Gen. Nathanael Greene and the officers and soldiers of the Continental Army who participated in the Battle of Guilford Court House: *Provided*, That the money authorized to be appropriated as aforesaid shall be expended under the direction of the Secretary of War, and the plans, specifications, and designs for such monument shall be first approved by the Secretary of War, with the assistance of the officers of the Guilford Battle Ground Co., before any money so authorized to be appropriated is expended: *And provided further*, That the site for said monument within the limits of said battlefield of Guilford Court House shall be selected by the Secretary of War and donated free of cost to the United States: *And provided further*, That when said monument is erected the responsibility for the care and keeping of the same shall be and remain with the Guilford Battle Ground Co., it being expressly understood that the United States shall have no responsibility therefor; and it being further understood that said Guilford Battle Ground Co. shall provide for the public use an open highway thereto.

The title was amended so as to read: "An act to provide for the erection of a monument to commemorate the Battle of Guilford Court House, N. C., and in memory of Maj. Gen. Nathanael Greene and the officers and soldiers of the Continental Army who participated with him in the Battle of Guilford Court House, N. C."

Mr. OVERMAN. I move that the Senate concur in the House amendments.

Mr. GALLINGER. Is this a Senate bill, I will ask the Senator from North Carolina?

Mr. OVERMAN. Yes; it is a Senate bill amended by the House.

Mr. GALLINGER. There is a somewhat singular circumstance connected with the matter of erecting monuments to the great soldiers of the Revolution. I think this must be the third bill in the last two or three years that has provided for monuments in North Carolina.

Mr. OVERMAN. I think not, Mr. President.

Mr. GALLINGER. I have been instrumental in passing bills through the Senate six or eight different times for monuments to Gen. Stark and Gen. Miller, but they seem to get lost somewhere. However, North Carolina always turns up with favorable action. I am not going to play the dog in the manger in this matter, but I do hope that North Carolina will desist from further importunities until New Hampshire has some little recognition.

Mr. OVERMAN. I voted for the Senator's bill.

Mr. GALLINGER. Yes.

The PRESIDING OFFICER. The question is on concurring in the amendments of the House of Representatives.

The amendments were concurred in.

THE CALENDAR—MEASURES PASSED OVER.

Mr. SMOOT. Regular order, Mr. President.

Mr. KEAN. Yes; let us have the regular order, which is the calendar under Rule VIII.

The PRESIDING OFFICER. The regular order is the calendar under Rule VIII, and the first bill in order will be stated.

The bill (S. 3528) to reimburse depositors of the Freedman's Savings & Trust Co. was announced as first business in order.

Mr. KEAN. Let the bill be passed over.

The PRESIDING OFFICER. The bill goes over.

The concurrent resolution (S. Con. Res. 16) authorizing the Secretary of War to return to the State of Louisiana the original ordinance of secession that was adopted by the people of said State in convention assembled, etc., was announced as next in order.

Mr. SMOOT. Let it go over.

Mr. KEAN. Let that be passed over.

The PRESIDING OFFICER. The concurrent resolution will be passed over.

Mr. KEAN. I suggest that we begin on the top of page 4.

Mr. CULBERSON. We on this side of the Chamber are unable to hear the Senator from New Jersey.

Mr. KEAN. I suggest that we begin at the top of page 4.

Mr. BORAH. Regular order!

Mr. CULBERSON. The regular order has been demanded.

The PRESIDING OFFICER. The regular order is being executed.

The bill (H. R. 10584) providing for the adjustment of the claims of the States and Territories to lands within national forests was announced as the next business on the calendar.

Mr. JONES. The Senator from Idaho [Mr. HEYBURN] is not here. I know he is very much opposed to this bill, and I do not like to have it taken up during his absence. Therefore I will ask that it go over, though I should very much like to have the bill passed.

The PRESIDING OFFICER. The bill will go over.

The bill (S. 8083) to provide for the handling of mail on which insufficient postage is prepaid, and for other purposes, was announced as next in order.

Mr. CULBERSON. Let the bill go over.

The PRESIDING OFFICER. The bill goes over.

The bill (S. 7668) to grant certain lands to the city of Colorado Springs, the town of Manitou, and the town of Cascade, Colo., was announced as the next business on the calendar.

Mr. KEAN. Let it go over.

The PRESIDING OFFICER. The bill goes over.

RETURN OF LOUISIANA BONDS.

The bill (S. 7180) authorizing the Secretary of War to return to the governor of Louisiana certain bonds of the State of Louisiana and city of New Orleans was announced as next in order.

Mr. BULKELEY. Let the bill go over.

The PRESIDING OFFICER. The bill will go over.

MORTON INSTITUTION OF AGRICULTURE AND FORESTRY.

The bill (S. 7902) to promote the science and practice of forestry by the establishment of the Morton Institution of Agriculture and Forestry as a memorial to the late J. Sterling Morton, former Secretary of Agriculture, was announced as next in order.

Mr. SMOOT. I ask that the bill be placed under Rule IX.

Mr. BURKETT. I ask the Senator from Utah not to have it placed under Rule IX. Some time before the session ends I desire to ask the Senate to consider the bill.

Mr. SMOOT. I will withdraw the request.

ELECTION OF SENATORS BY DIRECT VOTE.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which is Senate joint resolution 134.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 134) proposing an amendment to the Constitution, providing that Senators shall be elected by the people of the several States.

Mr. PERCY. Mr. President, this question has been so long before the public and has been so thoroughly discussed and the arguments in favor of the joint resolution have been presented with such signal ability during the debate in this Chamber by the Senator from Idaho [Mr. BORAH], the Senator from Maryland [Mr. RAYNER], and others who have spoken on it, that I do not propose to add anything to the general discussion.

The State which I have the honor in part to represent has, through its legislature, declared in favor of the election of Senators by a direct vote of the people. In that State we have now, under the primary election system which obtains there, the benefits which are sought to be conferred by the joint resolution, having there a primary election by a majority of the electors. But there are some phases of the question which have been developed in the discussion here to which I should like to briefly advert.

The parts of the Constitution which will be affected by the joint resolution are section 3 of Article I:

The Senate of the United States shall be composed of two Senators from each State, chosen by the legislature thereof for six years, and each Senator shall have one vote.

And that part of paragraph 2 of the section providing that vacancies during the recess of the legislature of any State may be filled by temporary appointments by the State executive. Paragraph 1 of section 4 provides the times, places, and manner of holding an election for Senators and Representatives shall be prescribed in each State by the legislature thereof, but the Congress may at any time by law make or alter such regulations except as to the places of choosing Senators.

The changes wrought by the proposed resolution are that Senators shall be elected by the people, the electors in each State having the qualifications requisite for electors of the most numerous branch of the State legislature, this being the provision now applicable to the electors of Members of the House of Representatives:

The times, places, and manner of holding elections for Senators shall be as prescribed in each State by the legislature thereof.

The provision giving Congress the power to make or alter such regulations is omitted. Vacancies in the Senate are filled by election by the people.

The effect of the amendment suggested by the Senator from Utah [Mr. SUTHERLAND] is that the provision giving Congress the power to make or alter regulations, except as to places of choosing Senators, shall be added to the resolution as reported by the committee. If the Republican friends of this resolution take the position that without the Sutherland amendment the resolution withdraws a substantial power from the Federal Government and they can not therefore support it, and the Democratic friends of the resolution take the position that with the Sutherland amendment a substantial power is conferred upon the Federal Government and with that amendment they can not support it, it is evident that the resolution will be defeated, and that it can be truly said to have been "butchered in the house of its friends."

What is the character of the power in Congress proposed to be withdrawn by the resolution as reported by the committee? It is true that the words giving Congress the power to make or alter the regulations prescribed by the State legislature are omitted, but the power that is conferred by those words is, in fact, almost a merely formal power, a power which never at any time it was contended could go behind the election of the members of the legislature, which accepted the organization of the legislature, and simply inquired into the manner of the election of Senators by that legislature as organized.

The power is correctly stated, as I understand it, by the Senator from Montana [Mr. CARTER] in his speech:

As to the conduct of elections of members of the State legislatures, the Federal Government is now absolutely powerless, under the ancient and unbroken line of holdings on that subject. We accord full faith and credit to the organized legislatures of the State, the body charged with the election of a Senator of the United States, and we inquire only into the conduct of the election by that legislative assembly. There is no power to go back to the polling places.

So the power conferred by that provision is limited merely to the election by the members of the legislature of Senators, and has no operation in the booths where those Members are elected. It is, so far as having control of the election of Senators, a formal power, a shell of a power, and that is the only power that is affected or sought to be withdrawn from the General Government by the joint resolution as reported by the committee.

The effect of the amendment suggested by the Senator from Utah would be to give Congress every power now possessed by it in regard to the elections of Members of the House of Representatives in regard to the election of Senators under the proposed resolution. The extent of that power, under the amendment, is, I believe, properly stated by the Senator from Utah [Mr. SUTHERLAND] in response to an inquiry by the Senator from Georgia [Mr. BACON]:

The effect of the addition proposed by the Senator from Utah, as stated by him, is that it will give the Federal Government power to put agents at elections of Senators to supervise these elections, to see the manner in which the votes were cast, and to enforce what might be thought to be the rights of electors in such elections.

In other words, the effect of the amendment of the Senator from Utah is to extend a substantial, a vital power to Congress which it does not now possess. In the one case, with the language omitted giving this power to Congress, a power is withdrawn which is in its nature formal. In the other case, with that verbiage retained, as it is in the present Constitution, a power is conferred which is in its nature vital.

The question has been asked, Why should there be a difference in the power of Congress in regard to the election of Senators and in regard to the election of Members of the House? The Senator from Montana propounded that query with dramatic effect, as follows:

Why should the power to control the elections of Members of the House be preserved and at the same time relinquished as to the election of members of the Senate, the election in each case being by popular vote as contemplated by the joint resolution? The boundless realms of reason can supply no answer to the question favorable to the attitude of the committee.

I submit, Mr. President, that the question can be answered by propounding the query, Why, because Congerss now has a power which in the judgment of many should never have been given to it, to regulate the elections of Members of the House of Representatives, should the power which it has never had be given to it to regulate the election of Senators?

Mr. SUTHERLAND. Mr. President——

The PRESIDING OFFICER. Does the Senator from Mississippi yield to the Senator from Utah?

Mr. PERCY. Certainly.

Mr. SUTHERLAND. The Senator from Mississippi says Congress has never had the power to regulate the times and manner of the election of Senators, as I understand it.

Mr. PERCY. No, sir; I said the power as it exists under the Constitution is a limited power, giving Congress no power to go behind the organization of the State legislatures.

Mr. SUTHERLAND. That is, the Senator from Mississippi means that Congress has not the power now under the Constitution to regulate the times or the manner of the election of Senators by a direct vote of the people, because no such right to elect Senators exists. Let me ask the Senator——

Mr. PERCY. Excuse me one second. That is not exactly a correct statement of the proposition. The proposition is that the power that does exist applies only after the organization of the legislature has been recognized, and that the vital power to go to the polling booths of the electors who elect members of the legislature has no existence under the Constitution as it stands to-day.

Mr. SUTHERLAND. The power of Congress extends over the electorate as it now exists under the Constitution. Let me ask the Senator from Mississippi: Suppose we pass a resolution here providing simply for the proposition that Senators shall hereafter be elected by a direct vote of the people, does the Senator not recognize the fact that the provision of the Constitution with reference to the supervisory power of Congress would at once, by the force of its own language, apply to such an election, and that it will require a change in the language of the Constitution with reference to the supervisory power to affect that result?

Mr. PERCY. With a change in the verbiage of the Constitution the existing power of Congress is more nearly preserved than with that verbiage left unchanged.

Mr. SUTHERLAND. But if we leave the Constitution as it is, if we simply provide for the election of Senators by a direct vote of the people, and go no further, then the provision of the Constitution with reference to the supervisory power of Congress will at once attach, will it not, to the election by a direct vote of the people as it now attaches to the election by a vote of the legislature?

Mr. PERCY. In my judgment, it would, and with the unchanged verbiage, by changing the method of election, you have extended the power of Congress in a vital particular.

Mr. SUTHERLAND. Then is it not true that the joint resolution seeks to change the Constitution in two particulars; first, to provide for direct election by the people, and, second, to take away from the election of Senators the supervisory power of Congress?

Mr. PERCY. No; because the supervisory power of Congress never has extended to the election of Senators in that vital particular, namely, in the election of members of the legislature who in their turn elect Senators.

Mr. SUTHERLAND. But it will extend——

Mr. PERCY. I do not believe I can state my position any more clearly. The amendment of the Senator from Utah, leaving the Constitution as it stands in that particular, with the unchanged verbiage, works an important and a substantial extension of the power of the Federal Government beyond what that Government has to-day.

Mr. SUTHERLAND. It continues the supervisory power of Congress over the election of Senators notwithstanding the change in the method of election. Is it not true that that is the only effect of it?

Mr. PERCY. That might be another method of stating the proposition, but I conceive that I have stated it more accurately; that it extends the power of Congress to a supervision of the electors at the booths, which power Congress has not under the Constitution and has never been considered to have.

Mr. President, this power conferred upon Congress as to the election of Members of the House of Representatives was conferred simply as an ancillary power to Congress by those who framed the Constitution. We heard from the Senator from Massachusetts [Mr. LODGE] the other day a tribute to the framers of the Constitution which we all appreciated and enjoyed, a tribute which in its ripe scholarship and happy verbiage probably could have been rendered by no other Senator here. And yet, beyond question, the dominant idea in the framers of the Constitution in regard to this clause of the Constitution was that it should only come into play upon the inaction of the States in providing for the election of Members of the House of Representatives. It was an emergent power, to provide against the negation of the Government by failure on the part of the States to act. Yet that emergent power, that ancillary power, by the strange alchemy of oratory here, has been transmuted into the main bulwark of constitutional government.

Why this power should not be extended as to the election of Senators of the United States can best be answered by the statement that the elections should be under the control of the States, that upon the patriotism, upon the honesty, upon the ability of the States to properly conduct those elections depends at last the perpetuity of our Government. In the case of Members of the House of Representatives, although the power in Congress to control their election has existed from the foundation of the Government, it has not been exercised, but these elections have been exclusively under the control of the States, except for 24 years, from 1870 to 1894, when the Federal election laws were on our statute books. I have no hesitancy in saying that in my judgment there never was a day in those 24 years when the welfare of the entire country would not have been promoted by having those election laws stricken from the statute books.

I would not be dealing with the matter frankly if I did not say that the fact that under this clause of the Constitution the Federal election laws were enacted, and under this clause of the Constitution those laws were attempted to be extended by the passage of what is usually known as the force bill, constitutes in my mind a controlling reason as to why this power should not be extended to the election of Senators.

I would not by any word inject any sectional discussion into this controversy, nor would I thresh over any old straw; but it is a mere statement of fact to say that the Federal election laws were regarded by the South as unwise, harsh, and oppressive, and the so-called force bill, under which it was said a bayonet could be put behind every ballot, and which failed of passage through this Senate by a technicality, would, in her judgment, then and now, have arrested her material progress, have destroyed her prosperity, and have given her chaos instead of government.

I know that much water has passed by the mill since the day when that act was offered here, and I believe those evil days of bitterness, misunderstanding, and mutual distrust have gone, possibly never to return. Yet one would find little warrant for that belief in the threat directed by the Senator from New York [Mr. DEPEW] to the Republican friends of this measure, that if they vote for the measure as reported by the committee the Republican Party in the doubtful States would feel the displeasure of the Negro vote in those States. That argument carries with it the suggestion that if the displeasures of that vote is so potential now, at some time in the future, when that vote may be more potential and more numerous than it is to-day, the desire to curry favor with it may prove to be a sufficient incentive for another attempt to enact a force bill for the Federal control of elections of Members of the House and of the Senate.

That same suggestion is carried out in the quotation from Willoughby on the Constitution, made by the Senator from Montana. In the quotation from that author, cited by the Senator, and doubtless with his approval, the author, after reviewing the difficulty attendant upon testing the suffrage provisions of the Southern States under the laws as they stand and under the decisions of the Supreme Court of the United States, makes the suggestion that Congress now has plenary power as to the election of Members of the House of Representatives, and under that power Congress can take control of the elections and of the registration for such elections, and could direct its registrars to refuse to register white voters offering to vote under suffrage provisions deemed by such registrars to be unconstitutional, and thereby such white voters would be forced to appeal to the Federal courts to test their right to vote, and an easy method would be thereby afforded of testing the validity of said suffrage provisions. I do not believe that I misconstrue the meaning of the author. To be certain that I am not misquoting him, I will read the extract:

> In the light of the foregoing unsuccessful attempts to obtain from the Supreme Court relief from the operation of the disfranchisement clauses of the State constitutions we have been considering, the question may properly be asked whether it is constitutionally proper for the Congress to provide by legislation means by which the constitutionality of these clauses may be fairly passed upon by Congress and the appropriate relief given. It would seem that much might be done. As regards congressional elections, Congress has, as we have seen, plenary powers to control and could take complete charge of both the elections and the registration of the voters. In such case the Federal registrars might refuse to register white voters under clauses of the State laws which they might hold to be in violation of the Federal Constitution, and the voter so refused registration would have to seek redress in the Federal courts and set up the validity of these State laws.

Notwithstanding the suggestions of the Senators from New York and Montana, the day may be far distant, if it will ever come, when any political party will again find it expedient to attempt to enact Federal laws for the supervision of elections. But this optimistic hope furnishes no safe reason for extending the power of the Government as to the enactment of such laws, and I would not be dealing in frankness with our Republican allies, who are supporting us in this measure, and for whose patriotism and earnestness in the support of it I have the profoundest respect, if I did not say to them that in my judgment the extension of the power of the Federal Government, as required by the Sutherland amendment, is a price greater than the South is willing to pay for the election of Senators by the direct vote of the people. I have no hesitancy in saying that it is a price greater than it should pay.

The Senator from Utah asks the question, "Is a withdrawal of power from the Federal Government more important than giving to the people the right to elect Senators by a direct vote?" I answer, "Is an extension of the power of the Federal Government more to be desired than that the people shall have the right to elect their Senators by a direct vote?"

I ask the friends of this measure to support the resolution as reported by the committee, a committee consisting of nine Republicans and six Democrats, with, I believe, only two dissenting votes on the report as made, and not to load it down with amendments which, I assure them, in my judgment, will result in the defeat of the resolution.

It has been suggested as one of the reasons for opposing the resolution in the form reported that it would limit the power of the Senate in investigating election frauds. The Senator from Montana has stated the effect of it to be that—

> the right of a person to a seat in the Senate could not be challenged on account of fraud, violence, or corruption at the polls, regardless of the extent to which citizens had been thereby denied equal protection of the laws or the right to vote.

But for the ability of the distinguished Senator making it I would unhesitatingly say that there is not the shadow of merit in the suggestion. Congress has no power and exercises no power to inquire into fraud or violence at the elections either of Members of the Senate or of Members of the House of Representatives under this clause in the Constitution. That power flows from section 1 of Article V, making each House judge of the elections of its own Members. It is under that power that the House of Representatives has been investigating the election of its Members, never stopping at the returns, investigating it fully as to all fraud, all corruption, all denial of the right to vote. Its power under that section is not amplified or extended by the power to take control of the elections of Members of the House, a power which is dormant and has not been invoked for 17 years.

That dormant power has given no additional power to the House of Representatives to investigate the election of its Members. So, Mr. President, the Senate would not be restricted by the fact that the Senate had no power to control the election of Senators as to the extent and scope of its inquiry in regard to the election of its Members, whether there had been fraud or corruption or a denial of the right to vote at such election.

Again, it has been suggested that this provision affects the fifteenth amendment. The Senator from Montana [Mr. CARTER] says that it is a limited, though a substantial, restriction on the fifteenth amendment, and the Senator from New York [Mr. DEPEW] says that it is a virtual repeal of the fourteenth and fifteenth amendments. Mr. President, Congress has never had the power under this clause to investigate the election of Members of the United States Senate in any manner which would directly or indirectly affect the enforcement of the fifteenth amendment. How, then, can the withholding of a power which it has never exercised before tend in any manner to affect the present efficiency of the laws enforcing the fifteenth amendment? In addition to this, as a part of that amendment, Congress, by section 2, is given the power to enforce this article by appropriate legislation. The efficacy of this section 2 to enforce the fifteenth amendment certainly can not be contended to be impaired or restricted by the adoption of the joint resolution as reported by the committee.

The suggestion was made both by the Senator from Montana and the Senator from New York that the chief incentive for southern Senators to support this joint resolution was some supposed recognition of the disfranchisement of the Negro vote. That would indeed be a poor tribute to the intelligence of the southern Senators supporting it.

Mr. President, the South, while contending against any extension of the power of the Federal Government over elections, while abating no jot of her deep-seated conviction that the qualifications for suffrage should have been, and should be, left exclusively to the States, yet is not seeking by direction or indirection to secure the repeal of the fifteenth amendment. Any appeal of that kind from her would fall on deaf ears. If such an appeal is ever to have potential effect, it will have to come from some other section of this Union, as come it may in the fullness of time from some Middle Western or Eastern State,

when the white men of those States shall have grown weary of having their political differences settled by the Negro vote. But until that day comes, or if it never comes, the South realizes that agitation for the repeal of this amendment from her or by her is senseless because of its absolute futility, is wicked because of the train of evil consequences attendant upon such agitation. Such agitation here would raise a sectional question, upon which she would find herself confronted, with past differences forgotten, by the balance of this Union in solid phalanx. In a hopeless minority, shorn of her influence, she would be helpless in the councils of this Nation; and at home agitation for the repeal of the fifteenth amendment would be the golden opportunity for the demagogue, the restless strife breeder, who would win brief popularity by appealing to race passion and to race hatred, by such appeals embittering the relationship between those two races which, under the fiat of Almighty God, for weal or for woe, must work out their fate on southern soil. Speaking for my own State, and I believe for the South, she is seeking to solve or to handle her race problem, the greatest that ever confronted the Anglo-Saxon race, in honesty, in justice, with infinite patience, with infinite charity toward the inferior race, under her own constitution and laws, the wisdom of which has been vindicated by the unparalleled prosperity that has come to both races since their adoption, and the validity of which has been upheld by the Supreme Court of the United States.

Mr. BORAH. Mr. President, I desire, if no one else wishes to speak upon this joint resolution, to ask unanimous consent to have the unfinished business temporarily laid aside.

The PRESIDING OFFICER. The Senator from Idaho asks unanimous consent to temporarily lay aside the unfinished business. Is there objection? The Chair hears none, and the unfinished business is temporarily laid aside.

MONONGAHELA RIVER BRIDGE.

Mr. OLIVER. Mr. President, I ask unanimous consent that House bill 31656 may be now considered.

The PRESIDING OFFICER. The Senator from Pennsylvania asks unanimous consent for the present consideration of the bill named by him, the title of which will be stated by the Secretary.

The SECRETARY. A bill (H. R. 31656) extending the time for commencing and completing the bridge authorized by an act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County."

The PRESIDING OFFICER. Is there objection to the consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to extend for one and three years, respectively, from June 25, 1911, the time for commencing and completing the bridge authorized by the act entitled "An act to authorize the Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County," approved April 23, 1906.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. OLIVER. I move that the bill (S. 10438) to amend an act amendatory of the act approved April 23, 1906, entitled "An act to authorize the Fayette Bridge Co. to construct a bridge over the Monongahela River, Pa., from a point in the borough of Brownsville, Fayette County, to a point in the borough of West Brownsville, Washington County," be indefinitely postponed. It is similar to the House bill which has just been passed.

The motion was agreed to.

REVISION OF LAWS—JUDICIARY TITLE.

Mr. HEYBURN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Senate bill 7031, which is the code bill—the judiciary title.

The PRESIDING OFFICER. The Senator from Idaho asks unanimous consent for the present consideration of the bill named by him. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 7031) to codify, revise, and amend the laws relating to the judiciary.

Mr. HEYBURN. I ask that the Secretary proceed with the reading of the sections of the bill.

Mr. CLARKE of Arkansas. Before that is done, Mr. President, I wish to offer an amendment.

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Arkansas?

Mr. HEYBURN. Yes.

Mr. CLARKE of Arkansas. I wish to offer an amendment to section 246, page 185, of the printed bill. I move to amend by striking out on line 8, on that page, the words "a time 10 years before" and inserting the words "the time of."

Perhaps I had better state what is the purport of the amendment. The purpose of the amendment, if adopted, will be to allow a retiring judge to receive the salary that he is receiving at the time he attains the age of 70 years and has been in service more than 10 years. As the law now exists, if a judge of one of the inferior courts is promoted to one of the superior courts, he is not entitled to receive the salary of the office which he is holding at the time of his retirement, if he should retire upon attaining the age of 70 years after serving 10 years, but is confined to the lower salary which he received as a judge of the inferior court. That operates a manifest injustice not only to the judge, but to the public. It sometimes operates to require judges to serve long after they have attained the age of 70 years in order to be entitled to the salary of the position which they were then holding. It is an obvious oversight in the law, and has no consideration founded in justice or in the efficient administration of the judicial service to support it.

Mr. HEYBURN. Mr. President, for the purpose of the consideration of the amendment proposed by the Senator from Arkansas, I move that the order entered adopting the section be reconsidered.

Mr. CLARKE of Arkansas. I did not know that the section had been adopted.

Mr. HEYBURN. Yes; and I now ask that the vote by which it was adopted may be reconsidered.

The PRESIDING OFFICER. The Senator from Idaho moves that the Senate reconsider its action in agreeing to section 246.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Arkansas offers an amendment, which will be stated.

The SECRETARY. On page 183, section 246, in line 8, it is proposed to strike out "a time 10 years before" and in lieu thereof to insert "the time of."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HEYBURN. Mr. President, I think it is proper that the RECORD should show the effect of the proposed change. This will allow the entire time during which a judge shall serve in two courts to be added for the purpose of completing the term of service.

Mr. CLARKE of Arkansas. That is right.

The amendment was agreed to.

The section as amended was agreed to.

Mr. HEYBURN. Now, Mr. President, I suggest that we recur to the sections passed over. In a number of cases the objection that was interposed has been withdrawn, and to consider and adopt those sections will tend to consolidate the work that is completed.

The PRESIDING OFFICER. The Secretary will state the first section passed over.

The SECRETARY. Section 2, chapter 1, page 3, of the bill.

Mr. HEYBURN. Mr. President, that section had better be read.

The PRESIDING OFFICER. The Secretary will read the section.

The Secretary read as follows.

SEC. 2. Each of the district judges shall receive a salary of $6,000 a year, to be paid in monthly installments; and shall also receive reasonable expenses actually incurred for travel and attendance when designated or requested, in accordance with law, to hold court outside of his district, not to exceed $10 per day, to be paid on the written certificate of the judge; and such payments shall be allowed the marshal in the settlement of his accounts with the United States.

Mr. HEYBURN. Mr. President, for the purpose of making the record complete, I will call attention to the change represented by the proposed section.

In making appropriations for the traveling expenses of United States judges when holding court outside of their respective districts, the act of March 3, 1905 (33 Stat., 1208), imposed the restriction that the expenses should be "actually incurred;" and this restriction has appeared in each act making appropriations for such purpose since that time. Since this restriction seems to indicate the policy of Congress with respect to the allowance of traveling expenses to the judges, those words have been carried into this section.

The words "or requested, in accordance with law," have been added in the fifth line of the section for the reason that in certain instances (sec. 93) a district judge may hold court in another district upon the request of the resident judge, thus making this amendment necessary as a matter of practice. Aside from these proposed changes, the section states in concise terms the existing law.

The PRESIDING OFFICER. The question is on agreeing to the section.

The section was agreed to.

The next section passed over was section 4, chapter 1, at the top of page 4, which the Secretary read, as follows:

SEC. 4. Except as otherwise specially provided by law, the clerk of the district court for each district may, with the approval of the district judge thereof, appoint such number of deputy clerks as may be deemed necessary by such judge, who may be designated to reside and maintain offices at such places of holding court as the judge may determine. Such deputies may be removed at the pleasure of the clerk appointing them, with the concurrence of the district judge. In case of the death of the clerk, his deputy or deputies shall, unless removed, continue in office and perform the duties of the clerk, in his name, until a clerk is appointed and qualified; and for the default or misfeasances in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk and his estate and the sureties on his official bond shall be liable; and his executor or administrator shall have such remedy for any such default or misfeasances committed after his death as the clerk would be entitled to if the same had occurred in his lifetime.

Mr. HEYBURN. Mr. President, section 558 of the Revised Statutes authorizes the judge to appoint deputy clerks, upon the application of the clerk. In view of the fact that in many special cases Congress has provided that the clerk shall appoint the deputies, the committee has so revised the section as to permit the clerk to appoint all deputies, with the approval of the district judge, and has conferred upon the clerk the power to remove any deputy, with the concurrence of the judge. The committee believes that since the clerk is held responsible for the acts of his deputies, he should be given the power of appointment.

Those are the only changes represented, except that the committee has also added a provision that the court may designate the place at which any deputy is to reside and maintain an office. That is for the convenience of the judge where the court is held, either on general or special order, at a different place from where it usually sits. I think those are the only changes it is necessary to call attention to. I move the adoption of the section.

The PRESIDING OFFICER. The question is on agreeing to the section.

The section was agreed to.

The next section passed over was section 28, chapter 3, page 21, which the Secretary read as follows:

SEC. 28. Any suit of a civil nature, at law or in equity, arising under the Constitution or laws of the United States, or treaties made, or which shall be made, under their authority, of which the district courts of the United States are given original jurisdiction by this title, which may now be pending or which may hereafter be brought, in any State court, may be removed by the defendant or defendants therein to the district court of the United States for the proper district. Any other suit of a civil nature, at law or in equity, of which the district courts of the United States are given jurisdiction by this title, and which are now pending or which may hereafter be brought, in any State court, may be removed into the district court of the United States for the proper district by the defendant or defendants therein, being nonresidents of that State. And when in any suit mentioned in this section there shall be a controversy which is wholly between citizens of different States, and which can be fully determined as between them, then either one or more of the defendants actually interested in such controversy may remove said suit into the district court of the United States for the proper district. And where a suit is now pending, or may hereafter be brought, in any State court, in which there is a controversy between a citizen of the State in which the suit is brought and a citizen of another State, any defendant, being such citizen of another State, may remove such suit into the district court of the United States for the proper district, at any time before the trial thereof, when it shall be made to appear to said district court that from prejudice or local influence he will not be able to obtain justice in such State court, or in any other State court to which the said defendant may, under the laws of the State, have the right, on account of such prejudice or local influence, to remove said cause: *Provided*, That if it further appear that said suit can be fully and justly determined as to the other defendants in the State court, without being affected by such prejudice or local influence, and that no party to the suit will be prejudiced by a separation of the parties, said district court may direct the suit to be remanded, so far as relates to such other defendants, to the State court, to be proceeded with therein. At any time before the trial of any suit which is now pending in any district court, or may hereafter be entered therein, and which has been removed to said court from a State court on the affidavit of any party plaintiff that he had reason to believe and did believe that, from prejudice or local influence, he was unable to obtain justice in said State court, the district court shall, on application of the other party, examine into the truth of said affidavit and the grounds thereof, and, unless it shall appear to the satisfaction of said court that said party will not be able to obtain justice in said State court, it shall cause the same to be remanded thereto. Whenever any cause shall be removed from any State court into any district court of the United States, and the district court shall decide that the cause was improperly removed, and order the same to be remanded to the State court from whence it came, such remand shall be immediately carried into execution, and no appeal or writ of error from the decision of the district court so remanding such cause shall be allowed.

Mr. HEYBURN. Mr. President, that is a composite of all of the removal acts since 1888. There are many provisions of law that have been enacted in pursuance of or in assistance to the act of 1888. At present when a case brought in a State court is removed to a Federal court it is removed to the United States circuit court. The rearrangement of these courts necessitates the accommodation of the language to the changed conditions which will result from the consolidation of those courts, and wherever such language is necessary to be inserted it has been made a part of the proposed section. The other changes are mere matters of form to adapt it to the changed practice. I move the adoption of the section.

The PRESIDING OFFICER. The question is on agreeing to the section.

The section was agreed to.

The PRESIDING OFFICER. The next section passed over will be stated.

The SECRETARY. Section 55, chapter 4, page 41——

Mr. HEYBURN. I inquire if section 51 was not passed over.

The PRESIDING OFFICER. It is marked as having been agreed to.

Mr. HEYBURN. Very well.

The PRESIDING OFFICER. The Secretary will state the next section passed over.

The Secretary read section 55, chapter 4, page 41, as follows:

SEC. 55. When in any suit commenced in any district court of the United States to enforce any legal or equitable lien upon or claim to, or to remove any incumbrance or lien or cloud upon the title to real or personal property within the district where such suit is brought, one or more of the defendants therein shall not be an inhabitant of or found within the said district, or shall not voluntarily appear thereto, it shall be lawful for the court to make an order directing such absent defendant or defendants to appear, plead, answer, or demur by a day certain to be designated, which order shall be served on such absent defendant or defendants, if practicable, wherever found, and also upon the person or persons in possession or charge of said property, if any there be; or where such personal service upon such absent defendant or defendants is not practicable, such order shall be published in such manner as the court may direct, not less than once a week for six consecutive weeks. In case such absent defendant shall not appear, plead, answer, or demur within the time so limited, or within some further time, to be allowed by the court, in its discretion, and upon proof of the service or publication of said order and of the performance of the directions contained in the same, it shall be lawful for the court to entertain jurisdiction, and proceed to the hearing and adjudication of such suit in the same manner as if such absent defendant had been served with process within the said district; but said adjudication shall, as regards said absent defendant or defendants without appearance, affect only the property which shall have been the subject of the suit and under the jurisdiction of the court therein, within such district; and when a part of the said real or personal property against which such proceedings shall be taken shall be within another district, but within the same State, such suit may be brought in either district in said State: *Provided, however*, That any defendant or defendants not actually personally notified as above provided may, at any time within one year after final judgment in any suit mentioned in this section, enter his appearance in said suit in said district court, and thereupon the said court shall make an order setting aside the judgment therein and permitting said defendant or defendants to plead therein on payment by him or them of such costs as the court shall deem just; and thereupon said suit shall be proceeded with to final judgment according to law.

Mr. HEYBURN. Mr. President, this is existing law, except that the section covers a doubt raised by a decision of the United States Supreme Court as to whether or not the act of 1875 was entirely superseded by the subsequent act governing this matter. In order that there might be no question about it, your committee has, in apt language, incorporated the words of the exception referred to. The only change in the language other than that just referred to, consists in the omission of the word "that" at the beginning of the section and in the substitution of the words "district court" for "circuit court." I move the adoption of the section.

The PRESIDING OFFICER. The question is on agreeing to the section.

The section was agreed to.

The SECRETARY. The next section passed over was in the substitute for chapter 5, section 69, on page 6 of the substitute.

Mr. HEYBURN. Mr. President, the Senator from Arkansas [Mr. CLARKE], who was present a few moments ago, desires to propose an amendment to that section. I have sent for the Senator from Arkansas. In the meantime I desire to recur to section 76 of the bill.

Mr. CLARKE of Arkansas entered the Chamber.

The PRESIDING OFFICER. The Chair calls the attention of the Senator from Idaho to the fact that the Senator from Arkansas is now on the floor.

Mr. CLARKE of Arkansas. I have examined the assignment of counties to the several districts and subdivisions of districts in the State of Arkansas, and, so far as I am advised, they are about as we want them, and I have no objection to interpose to the amendment offered by the Senator from Idaho.

Mr. HEYBURN. It is satisfactory?

Mr. CLARKE of Arkansas. Yes; it is satisfactory.

The PRESIDING OFFICER. Without objection, the section is agreed to.

Mr. HEYBURN. I ask to recur to section 76 in the bill. In the amendment it is section 76 also.

The PRESIDING OFFICER. What State?

Mr. HEYBURN. Idaho.

A bill that passed the Senate some time during the last session passed the House yesterday, I think; I have that bill here, and I will ask that it be inserted in lieu of the existing provision.

The SECRETARY. In lieu of section 76, as printed, insert the following:

The State of Idaho shall be divided into four divisions, to be known as the northern, central, southern, and eastern divisions. The territory embraced on the 1st day of July, 1910, in the counties of Shoshone, Kootenai, and Bonner shall constitute the northern division of said district; and the territory embraced on the date last mentioned in the counties of Latah, Nez Perce, and Idaho shall constitute the central division of said district; and the territory embraced on the date last mentioned in the counties of Ada, Boise, Blaine, Cassia, Twin Falls, Canyon, Elmore, Lincoln, Owyhee, and Washington shall constitute the southern division of said district; and the territory embraced on the date last mentioned in the counties of Bingham, Bear Lake, Custer, Fremont, Bannock, Lemhi, and Oneida shall constitute the eastern division of said district.

SEC. 6. That the terms of the district court for the northern division of the State of Idaho shall be held at Coeur d'Alene City on the fourth Monday in May and the third Monday in November; for the central division, at Moscow on the second Monday in May and the first Monday in November; for the southern division, at Boise City on the second Mondays in February and September; and for the eastern division, at Pocatello on the second Mondays in March and October; and the provision of any statute now existing providing for the holding of said terms on any day contrary to this act is hereby repealed; and all suits, prosecutions, process, recognizance, bail bonds, and other things pending in or returnable to said court are hereby transferred to, and shall be made returnable to, and have force in the said respective terms in this act provided in the same manner and with the same effect as they would have had had said existing statute not been passed.

That the clerk of the district and circuit courts for the district of Idaho and the marshal and district attorney for said district shall perform the duties appertaining to their offices, respectively, for said courts of the said several divisions of said judicial district. Whenever in the judgment of the district and circuit judges the business of said courts hereafter shall warrant the employment of a deputy clerk at Coeur d'Alene City, new books and records may be opened for the said court, and a deputy clerk appointed to reside and keep his office at Coeur d'Alene City.

The amendment was agreed to.

Mr. HEYBURN. I move the adoption of the section as amended.

The section as amended was agreed to.

Mr. WARNER. In section 89, page 81, in line 13, I move the insertion of the word "Maries" after the word "Lincoln."

Mr. HEYBURN. I move that the action of the Senate in adopting section 89 be reconsidered and that the section be open to amendment.

Mr. WARNER. Pardon me; I did not know that it had been acted upon.

The PRESIDING OFFICER. The motion to reconsider is agreed to. The section is before the Senate, and the Senator from Missouri offers an amendment, which the Secretary will state.

The SECRETARY. In the revised chapter, page 34, line 25, after the word "Lincoln," insert the word "Maries," and on page 36, line 11, after the word "Howard," strike out "Maries."

Mr. WARNER. A bill for this purpose has passed the House and Senate.

Mr. HEYBURN. There is no objection to the amendment.

Mr. SMITH of Michigan. I move to amend, in section 86, page 29, line 9, by striking out the words "Shiawassee, Genesee," and inserting the words "Genesee, Shiawassee" after the word "Crawford," in line 4, page 29.

The SECRETARY. On page 29, of revised chapter 5, strike out the words "Shiawassee, Genesee" and insert them in line 4 after the word "Crawford," in the order "Genesee, Shiawassee."

Mr. HEYBURN. I call the attention of the clerk to the fact that that reference by number and page will have to be adapted to the bill, because the amendment becomes a part of the bill, and the paging will be consecutive in the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Michigan.

The amendment was agreed to.

Mr. HEYBURN. Section 69 was reserved, as the Senator from Arkansas made some objection. The objection is withdrawn, and that is marked as adopted.

The PRESIDING OFFICER. It is marked as having been agreed to.

Mr. HEYBURN. It has been agreed to?

The PRESIDING OFFICER. It has been agreed to.

Mr. HEYBURN. Now we are ready to proceed in order.

Mr. SUTHERLAND. I desire to ask the Senator from Idaho whether all the passed over sections have been disposed of.

Mr. HEYBURN. They have not all been disposed of. We are taking them up in their order.

Mr. SUTHERLAND. I want to suggest one or two amendments.

Mr. HEYBURN. Certainly.

Mr. SUTHERLAND. My attention has been diverted, and I have not noticed just what point we have reached in the bill.

Mr. HEYBURN. We have disposed of some amendments that have been offered to various sections, and I believe section 55 is the order reached by the clerk in the reading.

Mr. SUTHERLAND. The amendment I have comes in later on.

Mr. HEYBURN. Section 55, on page 41, has just been adopted. The next number passed over, according to my memoranda, is 69.

The PRESIDING OFFICER. That section has been agreed to, the Chair is informed by the Secretary.

Mr. HEYBURN. What is the next number?

The SECRETARY. Section 104, page 53, is the next section passed over, the section relative to South Dakota.

The PRESIDING OFFICER. The section was passed over, having had several amendments placed to it agreed to. State of South Dakota, section 104.

Mr. HEYBURN. That is South Dakota in the amendment. The pages do not run the same.

The PRESIDING OFFICER. The paging is different.

Mr. HEYBURN. I will ask if there are any amendments with the clerk?

The VICE PRESIDENT. Several amendments have already been agreed to in the section.

Mr. HEYBURN. Then I move that the section be adopted as amended.

The VICE PRESIDENT. Without objection, the section is adopted as amended. Section 123 is the next section passed over, on page 123 of the bill.

The Secretary read as follows:

SEC. 123. The clerk of the circuit court of appeals for each circuit may, with the approval of the court, appoint such number of deputy clerks as the court may deem necessary. Such deputies may be removed at the pleasure of the clerk appointing them, with the approval of the court. In case of the death of the clerk his deputy or deputies shall, unless removed by the court, continue in office and perform the duties of the clerk in his name until a clerk is appointed and has qualified; and for the defaults or misfeasances in office of any such deputy, whether in the lifetime of the clerk or after his death, the clerk and his estate and the sureties on his official bond shall be liable, and his executor or administrator shall have such remedy for such defaults or misfeasances committed after his death as the clerk would be entitled to if the same had occurred in his lifetime.

The VICE PRESIDENT. Without objection, the section is agreed to.

The SECRETARY. The next section is section 215, on page 165.

Mr. SUTHERLAND. I desire to suggest an amendment to a section which precedes this one—section 127, on page 126. I offer the following amendment.

The VICE PRESIDENT. Without objection, the vote by which section 127 was agreed to will be reconsidered. The Senator from Utah offers the following amendment.

The SECRETARY. On page 126, line 24, after the words "patent laws," insert "under the copyright laws."

The VICE PRESIDENT. Without objection, the amendment offered by the Senator from Utah is agreed to, and the section as amended is agreed to.

Mr. SUTHERLAND. On page 173, I desire to offer another amendment, in section 227 of the bill.

Mr. HEYBURN. Just a moment. That would cause us to jump over section 215. We will reach section 227 in a moment, when we have disposed of section 215; and unless the Senator particularly desires to present his amendment at this time, I would prefer to proceed in order.

Mr. SUTHERLAND. Very well; I will withhold the amendment.

The VICE PRESIDENT. Section 215 will now be considered. It has already been read. Is there an amendment to be offered? Does the Senator from Idaho desire the section reread?

Mr. HEYBURN. No; I do not ask that it be reread, unless the request comes from elsewhere. I move its adoption.

The VICE PRESIDENT. Without objection, the section is agreed to.

The SECRETARY. Page 172, section 225 is next [reading]:

SEC. 225. Appeals and writs of error may be taken from the district courts, including the United States district court for Hawaii, direct to the Supreme Court in the following cases: In any case in which the jurisdiction of the court is in issue, in which case the question of jurisdiction alone shall be certified to the Supreme Court from the court below for decision; from the final sentences and decrees in prize causes; in any case that involves the construction or application of the Constitution of the United States; in any case in which the constitutionality of any law of the United States, or the validity or construction of any treaty made under its authority is drawn in question; and in any case in which the constitution or law of a State is claimed to be in contravention of the Constitution of the United States.

Mr. HEYBURN. It was passed over the other day on the motion of the Senator from New York [Mr. ROOT].

Mr. ROOT. Mr. President, I feel very strongly that there ought to be a contraction in the recourse to the Supreme Court for the purpose of the review of decisions of this character. But I have come to the conclusion that it is probably not practicable to secure such a consideration of the subject upon this revision as it ought to receive without imperiling the passage of the revision measure at the present session, and I shall accordingly withdraw my request to have this section passed over in the hope that upon a later occasion the subject may be taken up by a separate bill and the Supreme Court may be relieved from the burden of a number of appeals with which they really ought not to be burdened.

The VICE PRESIDENT. Without objection, the section is agreed to. Without objection, the vote by which 227 was agreed to is reconsidered; and the Senator from Utah offers the following amendment.

The SECRETARY. On page 173, section 227, in line 6, after the word "case," insert "civil or criminal," and in line 9, after the word "otherwise," insert "upon the petition of any party thereto."

Mr. HEYBURN. I call the attention of the Senator from Utah to the effect this amendment would have. Would that include the United States as a party?

Mr. SUTHERLAND. That is the object of it.

Mr. HEYBURN. It permits the United States to ask through certiorari proceedings for a review of a criminal case?

Mr. SUTHERLAND. Yes.

Mr. HEYBURN. It is a pretty wide departure, it seems to me. I do not want to enter into much controversy about it, but it seems to me that it is going a good ways from the established rule to allow the United States to review a criminal case by writ of certiorari.

Mr. SUTHERLAND. The object of it is this: Very often in the circuit court of appeals a criminal case has gone off on a purely technical proposition, and there is no way by which the question can be got to the Supreme Court of the United States. I think in some cases it is a great necessity that the Supreme Court of the United States should have the power to review such a case.

Mr. HEYBURN. We hesitated a long time before we allowed the right of appeal to the United States in criminal cases. It is only a few months since we enacted that legislation. Now, if we allow the United States, in a case where there is no right of appeal, to bring up upon certiorari a criminal case that has been decided adversely to the United States, it is going a long way. I will not do more than interpose these suggestions. I had not anticipated any such amendment being offered. It so radically widens the jurisdiction in the matter of appeals in criminal cases that it seems to me that it ought to go to a standing committee—the Judiciary Committee—of the Senate. But I am willing to let it pass in. It will be considered in conference.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Utah.

The amendment was agreed to.

Mr. SUTHERLAND. I desire to offer another amendment——

Mr. HEYBURN. Has the section been adopted?

The VICE PRESIDENT. The section as amended is adopted.

Mr. SUTHERLAND. I desire to offer a substitute for section 237, and if that is adopted I shall propose a substitute for the following section, 238.

The VICE PRESIDENT. Section 229 was passed over. It will be acted upon first, if there be no objection. The sections will be taken up consecutively.

The Secretary read section 229, as follows:

SEC. 229. An appeal to the Supreme Court shall be allowed on behalf of the United States, from all judgments of the Court of Claims adverse to the United States, and on behalf of the plaintiff in any case where the amount in controversy exceeds $3,000, or where his claim is forfeited to the United States by the judgment of said court as provided in section 176.

Mr. HEYBURN. The section went over on the motion of the Senator from New York [Mr. ROOT], and I call his attention to it.

Mr. ROOT. I am willing that it should be considered.

The VICE PRESIDENT. Without objection, the section is agreed to.

The SECRETARY. The next section passed over is section 231, on page 174.

Mr. HEYBURN. That also went over on the objection of the Senator from New York.

Mr. ROOT. It may as well be considered.

Mr. HEYBURN. I move its adoption.

The VICE PRESIDENT. Without objection, the section is agreed to.

The SECRETARY. Section 234, on page 176, was also passed over. It reads:

SEC. 234. Appeals and writs of error may be taken and prosecuted from final judgments and decrees of the district court for the District of Alaska or for any division thereof, direct to the Supreme Court of the United States, in the following cases: In prize cases; and in all cases which involve the construction or application of the Constitution of the United States, or in which the constitutionality of any law of the United States or the validity or construction of any treaty made under its authority is drawn in question, or in which the constitution or law of a State is claimed to be in contravention of the Constitution of the United States. Such writs of error and appeals shall be taken within the same time, in the same manner, and under the same regulations as writs of error and appeals are taken from the district courts to the Supreme Court.

Mr. HEYBURN. It went over on the motion of the Senator from New York.

The VICE PRESIDENT. Without objection, the section is agreed to.

The SECRETARY. Section 235, on page 176, was also passed over.

Mr. ROOT. It should have the same disposition.

The VICE PRESIDENT. Without objection, the section is agreed to.

The Senator from Utah offers an amendment to section 237, which the Secretary will state.

The SECRETARY. It is proposed to insert as a substitute for section 237 the following:

SEC. 237. Any final judgment or decree of the court of appeals of the District of Columbia may be reexamined and affirmed, reversed, or modified by the Supreme Court of the United States upon writ of error or appeal in the following cases:

(1) In cases in which the jurisdiction of the trial court is in issue; but when any such case is not otherwise reviewable in said Supreme Court, then the question of jurisdiction alone shall be certified to said Supreme Court for decision.

(2) In prize cases.

(3) In cases involving the construction or application of the Constitution of the United States, or the constitutionality of any law of the United States, or the validity or construction of any treaty made under its authority.

(4) In cases in which the Constitution or any law of a State is claimed to be in contravention of the Constitution of the United States.

(5) In cases in which the validity of any authority exercised under the United States, or the exercise or scope of any power or duty of an officer of the United States is drawn in question.

(6) In cases in which the construction of any law of the United States is drawn in question by the defendant.

And, except as provided in the next succeeding section, the judgments and decrees of said court of appeals shall be final in all cases arising under the patent laws, the copyright laws, the revenue laws, the criminal laws, and in admiralty cases. Writs of error and appeals shall be taken within the same time, in the same manner, and under the same regulations as writs of error and appeals are taken from the circuit courts of appeals to the Supreme Court of the United States.

Mr. SUTHERLAND. I will state, Mr. President, that the effect of the amendment is to allow an appeal in substantially the same class of cases in which an appeal is now allowed from the circuit court of appeals of the United States. It very much narrows the jurisdiction as it now exists. Under the existing law an appeal may be taken from the court of appeals of the District of Columbia in all cases in which the matter in dispute, exclusive of the costs, exceeds the sum of $5,000.

I see no reason why the Supreme Court of the United States should be burdened with that class of cases. Hence the amendment as I have suggested it very much narrows the class of cases which may be appealed to the Supreme Court of the United States, and to that extent will relieve that court from a great deal of work.

The court of appeals of the District of Columbia is an able court. It is as able a court as we have in the circuits, sitting as a circuit court of appeals, and I see no reason why the class of cases that is made final in the circuit court of appeals should not also be made final in the court of appeals of the District of Columbia.

Mr. HEYBURN. I am thoroughly in accord with the proposed amendment. The committee, as closely as possible, adhered to the rule that they would not introduce new legislation, and for that reason did not propose a change; but the amendment being before the Senate, it is entirely appropriate for this body at this time to make the amendment.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Utah.

The amendment was agreed to.

The section as amended was agreed to.

The VICE PRESIDENT. The Senator from Utah also offers an amendment to section 238.

Mr. SUTHERLAND. I offer a substitute for section 238.

The VICE PRESIDENT. That section was agreed to. Without objection, the vote by which the section was agreed

to will be reconsidered. The Senator from Utah proposes an amendment, which will be read.

The SECRETARY. In lieu of section 238 insert a new section 238, to read as follows:

SEC. 238. In any case in which the judgment or decree of said court of appeals is made final by the section last preceding, it shall be competent for the Supreme Court of the United States to require, by certiorari or otherwise, any such case to be certified to it for its review and determination, with the same power and authority in the case as if it had been carried by writ of error or appeal to said Supreme Court. It shall also be competent for said court of appeals, in any case in which its judgment or decree is made final under the section last preceding, at any time to certify to the Supreme Court of the United States any questions or propositions of law concerning which it desires the instruction of that court for their proper decision; and thereupon the Supreme Court may either give its instruction on the questions and propositions certified to it, which shall be binding upon said court of appeals in such case, or it may require that the whole record and cause be sent up to it for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there for review by writ of error or appeal.

Mr. SUTHERLAND. That simply confers the same power upon this court that now exists with reference to the circuit court of appeals.

The VICE PRESIDENT. Without objection, the amendment is agreed to, and without objection the section as amended is agreed to.

Mr. HEYBURN. That disposes of the sections that went over and brings us back to the consecutive consideration of the bill. There are some amendments that have been offered, one by the Senator from Virginia [Mr. MARTIN], who is not present. I inquire if the Secretary has a memorandum of any other sections passed over.

Mr. OVERMAN. I inquire of the Senator from Idaho if he has incorporated the amendment I proposed to the interstate-commerce law.

The VICE PRESIDENT. The Secretary's memorandum shows that sections 249 and 250 were passed over at the request of the junior Senator from Idaho [Mr. BORAH].

Mr. HEYBURN. My memorandum so shows, upon a closer investigation.

The VICE PRESIDENT. Without objection, the sections will be agreed to.

Mr. HEYBURN. No, Mr. President; those are the injunction clauses, and I think the Senate should know what they are considering in these cases.

The VICE PRESIDENT. The Senator suggests that the sections be read?

Mr. HEYBURN. I will ask that the junior Senator from Idaho be sent for. I ask that the amendments be read.

The VICE PRESIDENT. There are no amendments to the sections as the Secretary understands it.

Mr. HEYBURN. I understood that my colleague did propose amendments. It is quite sure that the Senator from Virginia [Mr. MARTIN] proposed an amendment. I ask the Secretary if he has the amendment on his desk.

The VICE PRESIDENT. The amendment offered by the Senator from Virginia appears to be to section 251.

Mr. HEYBURN. There is an amendment offered by the Senator from North Carolina [Mr. OVERMAN] as well, which went over.

Mr. OVERMAN. I think the Senator from Idaho is mistaken about that. He said he had the amendment himself to offer. I did not prepare the amendment.

Mr. HEYBURN. I said that I had a copy of it here merely for the convenience of the Senator.

Mr. OVERMAN. The Senator would introduce it, as I understand. It is part of the law of the land and it ought to be brought forward.

Mr. HEYBURN. It is a part of the law and it will be found in its appropriate place in the law as we present it. We have not overlooked it. It comes under the title to which it appropriately belongs.

Mr. OVERMAN. I merely wanted an assurance from the Senator that it would be brought forward.

Mr. HEYBURN. Yes; we are not striking out anything that is law. Everything that is the law will remain in the revision.

Mr. OVERMAN. I did not see it in this revision as reported.

Mr. HEYBURN. It does not come under this particular head.

Mr. OVERMAN. But under any head?

Mr. HEYBURN. Yes.

The VICE PRESIDENT. What disposition does the Senator from Idaho suggest to have made of sections 249 and 250?

Mr. HEYBURN. I will ask that they may go over until my colleague reaches the Chamber, and that we proceed to the next section. He has been sent for.

The VICE PRESIDENT. Without objection, that will be done.

Mr. HEYBURN. I beg pardon, Mr. President. I am advised that my colleague was merely asking on behalf of some other person that the matter be held over. I ask for the adoption of those sections as they are reported.

The VICE PRESIDENT. Without objection, sections 249 and 250 are agreed to. The Senator from Virginia offers an amendment to section 251.

Mr. MARTIN. I offer an amendment as a new section there. The Senator from Oklahoma [Mr. OWEN] I find had already, though I did not know it, offered a similar amendment, and I think he is very much interested in the matter. He is not in the Chamber. I hardly think it would be——

Mr. HEYBURN. I would like very much to close up the consideration of this matter to-day. The committee of conference will consider those amendments. They were offered in another body. I do not feel like entering upon a discussion of that labor question to-day. I hope the Senator from Virginia will let it pass by.

Mr. MARTIN. I will let it pass by, just so that it will not be finally acted upon.

Mr. HEYBURN. If possible I want to dispose of the bill this afternoon.

Mr. MARTIN. I can not agree to that. I think this amendment is entitled to careful consideration.

Mr. HEYBURN. Then let us have a vote on it. Let it be passed for the present. I hope the Senator will send for the Senator from Oklahoma.

The VICE PRESIDENT. The Senator from Oklahoma did not offer the amendment, as is evidenced by the Secretary's record. The amendment was printed at the request of the Senator from Oklahoma to be offered by him, but it has not been offered.

Mr. OVERMAN. Will the Senator inform me where that amendment is to be found?

Mr. HEYBURN. That is not a part of the chapter. It is a part of the interstate-commerce law.

Mr. OVERMAN. It really ought to be under this law, because it has nothing really to do with the interstate-commerce act.

Mr. HEYBURN. I will state to the Senator from North Carolina that the interstate-commerce act is being written into the law, and the subcommittee on form will transfer matters that have been legislated since this was printed and made up to the proper and appropriate chapter.

Mr. OVERMAN. With that assurance I have nothing further to say.

Mr. HEYBURN. That will necessarily follow. We are enacting laws constantly, and after we have completed the consideration of this title and other titles it will be necessary for the committee in determining the form and arrangement of them to transfer them to their appropriate chapters and titles.

Mr. OVERMAN. The reason I suggested it is because, as the Senator well knows, the amendment really is not a part of the interstate-commerce law. It ought to be under the proper head in this law.

Mr. HEYBURN. It will doubtless, in conference, be brought into the law under this head, but we are proceeding with a bill that was introduced and printed before the enactment of that law.

Mr. MARTIN. Mr. President, I send to the desk an amendment, which I offer.

The VICE PRESIDENT. The amendment will be stated.

The SECRETARY. Insert, after section 251, a new section, section 251a, as follows:

SEC. 251a. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employee, or between employers and employees, or between employees, or between persons employed and persons seeking employment, or involving or growing out of a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property or to a property right of the party making the application, for which injury there is no adequate remedy at law; and such property and property right must be particularly described in the application, which must be in writing and sworn to by the applicant, or by his, her, or its agent or attorney. And for the purposes of this act no right to continue the relation of employer and employee, or to assume or create such relation with any particular person or persons, or at all, or to carry on business of any particular kind, or at any particular place, or at all, shall be construed, held, considered, or treated as property or as constituting a property right.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Virginia.

Mr. HEYBURN. I move to lay the amendment on the table. I do not think the Senator intends to press that.

Mr. MARTIN. I do not propose to go into any discussion of the matter, but I want the consideration of the Senate and a vote on it.

Mr. HEYBURN. Let it go to a vote, then; only I do not want to raise the question of a quorum.

The PRESIDING OFFICER (Mr. LODGE in the chair). The question is on the adoption of the amendment.

The amendment was rejected.

The PRESIDING OFFICER. The Secretary will proceed with the bill.

The SECRETARY. Page 196, chapter 12, section 274——

The PRESIDING OFFICER. Chapter 12 has been read. Are there any amendments?

Mr. HEYBURN. I move its adoption.

The PRESIDING OFFICER. The question is on agreeing to the chapter.

Mr. HEYBURN. Not the whole chapter, but by sections.

The PRESIDING OFFICER. Then, the question is on concurring to section 274. Without objection, section 274, as amended, is agreed to.

Mr. HEYBURN. I call attention to the fact that, on line 2, page 197, after the word "the" where it first appears, the word "same" is inserted.

The PRESIDING OFFICER. The Chair intended to call attention to that amendment.

Section 275, without objection, is agreed to.

Section 276, without objection, is agreed to.

Section 277 is agreed to, without objection.

Section 278 is agreed to.

Section 279 is agreed to.

Section 280 is agreed to.

Section 281 is agreed to.

Chapter 13 has not been read. The Secretary will read it.

The Secretary read as follows:

CHAPTER 13.

REPEALING PROVISIONS.

SEC. 282. That the following sections of the Revised Statutes and acts and parts of acts are hereby repealed:

Sections 530 to 560, both inclusive; sections 562 to 564, both inclusive; sections 567 to 627, both inclusive; sections 629 to 647, both inclusive; sections 650 to 697, both inclusive; section 699; sections 702 to 720, both inclusive; section 723; sections 725 to 749, both inclusive; sections 800 to 822, both inclusive; sections 1049 to 1088, both inclusive; sections 1091 to 1093, both inclusive, of the Revised Statutes.

Mr. HEYBURN. I think we might dispense with the reading of these clauses. They will have to be adapted to the action we have taken throughout the entire body of the bill. There will necessarily be changes with reference to some of them. They will have to be reinstated and some more changes made.

The PRESIDING OFFICER. The Senator from Idaho asks unanimous consent that the reading of chapter 13 be dispensed with, and that it be agreed to?

Mr. HEYBURN. Yes.

The PRESIDING OFFICER. Without objection, that will be so ordered.

Mr. SUTHERLAND. Except section 286.

The PRESIDING OFFICER. That concludes the bill, unless some section has been passed over.

Mr. SUTHERLAND. The last section, section 286, should obviously be amended. It reads:

That this act shall take effect and be in force on and after July 1, 1910.

I move to amend by striking out the word "ten" and insert the word "eleven," so as to read:

That this act shall take effect and be in force on and after July 1, 1911.

The PRESIDING OFFICER. Without objection, the amendment is agreed to, and the section as amended is agreed to.

Mr. PILES. Page 3, line 15, I move to strike out the word "six" and insert the word "nine."

The PRESIDING OFFICER. The amendment will be stated.

The SECRETARY. In section 2 of the bill, page 3, line 15, before the word "thousand," strike out "six" and insert "nine," so as to read:

Each of the district judges shall receive a salary of $9,000 a year.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Washington.

The amendment was agreed to.

Mr. PILES. On page 120, line 18, I move to strike out "seven" and insert "ten" before the word "thousand," so as to read:

They shall be entitled to receive a salary at the rate of $10,000 a year.

This relates to the circuit judges.

Mr. BRISTOW. That proposes to increase the salary of the circuit judges to $10,000?

The PRESIDING OFFICER. It does. It raises the salary from $7,000 to $10,000.

Mr. BRISTOW. I think on an important matter like that there ought to be a quorum to consider it.

The PRESIDING OFFICER. The Senator from Kansas raises the point of the absence of a quorum.

Mr. PILES. I withdraw the amendment for the present. I do not want to interfere with the bill.

The PRESIDING OFFICER. It is too late. The point of no quorum has been made. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Bacon	Cullom	McComber	Scott
Bourne	Cummins	Martin	Shively
Bradley	Depew	Nelson	Smith, Md.
Briggs	Dillingham	Oliver	Smoot
Bristow	du Pont	Overman	Sutherland
Brown	Fletcher	Owen	Swanson
Bulkeley	Flint	Page	Taliaferro
Burkett	Gallinger	Percy	Taylor
Burton	Guggenheim	Perkins	Thornton
Chamberlain	Heyburn	Piles	Warner
Clapp	Jones	Rayner	Watson
Clarke, Ark.	Kean	Richardson	Wetmore
Crane	Lodge	Root	

The PRESIDING OFFICER. Fifty-one Senators have answered to their names. A quorum is present.

Mr. PILES. The Senator in charge of the bill tells me he is very anxious to conclude it, at least in Committee of the Whole, this afternoon, and I will not press the amendment at the present time.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. HEYBURN. That disposes of the consideration of the bill.

The PRESIDING OFFICER. The bill is as in Committee of the Whole and open to amendment. If no amendment be proposed, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The bill is in the Senate and open to amendment.

Mr. BRISTOW. I understand there was an amendment just incorporated increasing the salary of the United States district judges.

Mr. HEYBURN. No; it was withdrawn.

The PRESIDING OFFICER. That amendment was agreed to.

Mr. HEYBURN. All that goes out.

Mr. BRISTOW. Does it go out? That is what I want to know.

The PRESIDING OFFICER. Then the vote will have to be reconsidered.

Mr. HEYBURN. The Senator from Washington withdrew it. If the record shows it is in the bill, I move that the vote be reconsidered by which the section was adopted and the amendment was agreed to.

Mr. PILES. That is entirely satisfactory to me. It was my purpose to increase the salaries of the district and circuit judges and the Justices of the Supreme Court of the United States. Of course, I have no desire to increase one unless we increase all.

The PRESIDING OFFICER. The question is on reconsidering the vote by which an increase of the salary of the district judges was agreed to. Without objection, the vote will be taken as reconsidered, and the amendment is withdrawn. Section 2 stands agreed to without amendment.

Mr. ROOT. I move to strike out section 274. I do that because I wish to record a vote against the abolition and consolidation of the circuit and district courts. I do not wish to take up the time of the Senate. I assume it will follow the committee; but I am not satisfied with the provision, and I wish an opportunity to vote against it.

The PRESIDING OFFICER. The Senator from New York moves to strike out section 274, which consolidates the district and circuit courts.

Mr. BACON. Mr. President, I do not intend to detain the Senate with any argument on the subject. I wish to take issue, however, with the distinguished Senator from New York in the assumption that the Senate is going to follow the committee in that matter. I should be very reluctant to believe that the Senate, when I know they have not had the opportunity to consider it, would, upon so important a matter, follow the committee, and for one I shall vote in favor of the motion to strike out the section.

I am not willing, Mr. President, that a system of the judiciary which has lasted for 120 years, and about which there has been a complete adjudication of all their relative rights and

powers, shall be stricken out without the most thorough consideration, not simply by a committee but by the Senate itself, which I think it has not had. I, myself, am not in favor of it, and I am unwilling that the suggestion of the Senator from New York should pass and thereby indicate that it was regarded as a foregone conclusion. I should think that the conservative position of the Senate would be in the affirmative on the motion and in the negative on the proposed change until they had been satisfied that it was one thoroughly justified, and that I do not believe the Senate has had the opportunity to determine.

Mr. HEYBURN. Mr. President, if the section is stricken out, then all that has been done in this Congress will have gone for naught, because the entire bill is based upon that proposition, and it would have to be redrawn and reconsidered. I sincerely hope that the Senator will be content with expressing his objection either by remarks or through his vote, but it is too grave a matter; it is rather appalling to those who have had charge of it to suggest that the enacting clause—and that is what it amounts to—of the bill be stricken out at this period of the session of Congress and of the consideration of the bill. Every section of this bill is drawn upon the basis of the change. I sincerely hope the Senate will not strike it out. I say that very seriously to the Senator from Georgia.

Mr. BACON. I wish to reply to the Senator with the utmost seriousness, if he will permit me. I will wait until he has finished.

Mr. HEYBURN. I have yielded the floor.

Mr. BACON. I have not any disposition to interfere with the Senator.

Mr. HEYBURN. I have yielded the floor.

Mr. BACON. Thank you. Mr. President, the Senator suggests a very serious alternative, whether we shall adopt the amendment offered by the Senator from New York or whether we shall strike out all of the bill after the enacting clause. I want to say to the Senator with the utmost seriousness, equally so with that which he expresses for himself, that if the alternative is presented between the proper consideration by the Senate of legislation which affects the whole body of the Federal statutes, the serious and the careful consideration of that, or, on the other hand, the refusal to enact it without such consideration, I would unhesitatingly vote for striking out all after the enacting clause.

I wish to say, Mr. President, in the hearing of the Senate, that the thing which the Senator suggests as that which would constitute such an enormity, to wit, the striking out all after the enacting clause, relates to legislation of this grave and far-reaching character, in the consideration of which the Senate has taken no part. I do not minimize or depreciate in any manner the work which has been done by the committee. They have labored very arduously, and I have no doubt with the utmost fidelity; but it is a work which has been confined to that committee. Day after day we have been in the Senate with this most far-reaching legislation under consideration, with not an average of half a dozen Senators in this body listening to it. That is the truth. There has not been an average of half a dozen Senators sitting in this Chamber when there is a proposition to enact a body of laws which shall cover the entire civil code.

Mr. HEYBURN. Will the Senator permit an interruption there?

Mr. BACON. I do.

Mr. HEYBURN. It certainly was not the fault of the committee that there was not a sufficient attendance.

Mr. BACON. Oh, no.

Mr. HEYBURN. This bill has been on the desks of Senators and it has been in order for consideration since March 7, 1910, for almost a year.

Mr. BACON. The Senator is eminently correct in stating that it is not the fault of the committee; and there can be no reflection upon the committee in the matter.

I repeat that the committee have been most industrious and indefatigable in its work, and I have no doubt they have been guided solely by a desire to change the laws in such particulars in which they think it important that there should be changes. There is no question about that whatever. Nevertheless, the fact exists that it is a matter on which we are called to vote now solely upon the judgment of the committee, and that the Senate itself has not taken such part in its consideration as will enable Senators to judge by their own knowledge, but they are limited necessarily by their confidence in the committee.

Mr. SUTHERLAND rose.

Mr. BACON. I do not know whether the Senator from Utah desires to interrupt me.

Mr. SUTHERLAND. I did not desire to interrupt the Senator; but I wanted to reply briefly when the Senator had finished.

Mr. BACON. Very well. Mr. President, that is the sole proposition which I make; not that the committee has in any manner failed in its duty, but that the committee has been left so entirely to itself in this matter that Senators have not heard the discussion and the majority of them know nothing about the bill. Some few may have studied it in their rooms; I do not know; but it is a most serious proposition that the Senate shall, in utter want of personal information, vote for some of these far-reaching propositions, one of which is to entirely transform the framework of our judicial system and practically to wipe out the circuit court of the United States. For myself I am not willing to vote for it.

Mr. SUTHERLAND. Mr. President——

Mr. BACON. And I want to say, if the Senator will pardon me one moment, something I intended to say before. Of course, it is a matter of some delicacy for a member of a committee to suggest that a bill ought to be referred to that committee, especially when the bill has had the very careful consideration of another committee; but I do think, Mr. President, that I may be pardoned for saying that anything which relates to the great body of the law—not simply one bill, but to the great body of the civil portion of our law—should go to the Judiciary Committee of the Senate for its final consideration, no matter how careful another committee may have been in its consideration. You have a law committee; you have selected its members presumably with a view to their competency to deal with such questions; and while it is proper that there should have been a Committee on the Revision of the Laws when it is apparent, as it is here, that the committee has not been simply revising and codifying the laws, but that they are proposing serious changes, it seems to me it is nothing but proper that this bill, after it has been thus thoroughly considered by the Committee on the Revision of the Laws, should go for final consideration to the Committee on the Judiciary.

Mr. SUTHERLAND. Mr. President, as the Senator from Idaho [Mr. HEYBURN] has well said, if this section shall be stricken out of the bill, the entire bill might as well be abandoned, because it is framed upon the theory that we shall hereafter have but one court of original jurisdiction, instead of two, as we have at present. To my mind, if there is any absurdity in the Federal judicial system, it consists in the fact that we have to-day two separate and distinct courts of jurisdiction—a circuit court of the United States and a district court of the United States. Jurisdiction has been conferred upon the district court in a class of cases which might as well have been conferred upon the circuit court and jurisdiction has been conferred upon the circuit court which might as well been conferred upon the district court. The way in which the jurisdiction has been conferred upon these separate courts is altogether arbitrary. There is absolutely no reason why the circuit court should possess a certain class of jurisdiction rather than that it should be possessed by the district court. The vital thing is to have a court of original jurisdiction for the trial of cases, and then a court of appellate jurisdiction, which may review the decisions of the trial court.

I venture to say that if this provision in the bill is adopted it will save to the United States at least $250,000 a year in the judicial expenses of this Government. We have this condition of affairs, for example: There are some States in the Union in which court clerks, under the law, are allowed double fees.

Take California, for example. There are two district courts and two circuit courts, each possessing original jurisdiction in that State. There is a clerk of each of the circuit courts and a clerk of each of the district courts of those districts—four clerks—and they have double fees. The maximum salary allowed is $3,500, and, under the law which allows them double fees, each of those clerks receives $7,000, so that we have four clerks in that State in those four separate courts of original jurisdiction paid an aggregate of $28,000 for clerical services. If we will wipe out of existence this altogether useless circuit court and confine the original jurisdiction to the district court, we will wipe out of existence every condition of that kind, and there will, instead of being four clerks, be but two clerks. Under this bill each of those clerks will receive a maximum salary of $3,500 a year—$7,000 in the aggregate instead of $28,000 as at present.

Dockets are duplicated. If you go into a Federal court of original jurisdiction to-day, the clerk will first read the journal of the district court kept in a separate docket. That is approved. Then he reads the journal entries of the circuit court and they are approved. Two sets of books are in many instances kept, and there are two separate corps of clerks. There is

absolutely no need of that condition. I can see no reason in the world why the original jurisdiction should not be conferred upon a single court. The two courts were created at a time when there may have been some necessity for it, but the work of the circuit judges now is confined practically to sitting in the circuit court of appeals. This bill, however, does not destroy the flexibility which exists under the present law. The circuit judge may still go to the district court and hold court, only he will hold as a circuit judge presiding over the district court.

The flexibility, however, of the whole system which permits an interchange of judges is not in any manner affected by this change in the law while we are getting rid of the conditions of which I have spoken, which are immensely expensive to the Government.

I think this provision is the most vital, the most important, and the most valuable provision of this bill, and I think it would be a misfortune if it were stricken out.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from New York [Mr. ROOT] to strike out section 274 of the bill.

Mr. CLARKE of Arkansas. Mr. President, I do not think this section is condemned by any defect in the parliamentary procedure by which it has been advanced to its present stage. It has merits of its own. They have been very succinctly and correctly stated by the Senator from Utah [Mr. SUTHERLAND]. They are familiar to every lawyer who practices in the smaller districts or in the smaller cities of the country. I do not know how they strike the Senator from New York [Mr. ROOT], because I am not familiar with the practice which obtains in New York. That is exceptional; and a condition that might make for the continuation of those courts at that particular place would be wholly inapplicable elsewhere.

As a matter of fact, the district judges have been holding circuit court for the last 15 years, and I doubt if there is a lawyer upon this floor who has ever seen within that time a circuit judge holding circuit court in his State. They are overburdened with business before the appellate court of which they are the judges. So much is that the case that the district judges are frequently called to the appellate bench to assist in the dispatch of business there.

The district courts were originally established and had all of the original Federal jurisdiction that was conferred by the acts of Congress. After a while the business became a little more congested, and additional judges were provided, who were called circuit judges. They were invested with appellate powers over certain criminal cases tried by district judges, certain admiralty cases tried by district judges, and patent cases tried by district judges, and, under the original bankruptcy law, certain cases were required to originate in the district court and be heard upon appeal by a circuit judge of the circuit court and, by assignment, by certain members of the Supreme Court.

That system prevailed until 1891, when it was found to have outgrown its usefulness, and more modern and effective methods were required to meet the judicial demands of the occasion, and circuit courts of appeal were created. Since that time it has been a rare exhibition to find a circuit judge holding a circuit court or a district court at nisi prius.

The purpose of this amendment is to simplify and to rationalize the courts of original jurisdiction. It gives to the judge of the district court all the jurisdiction that is now lodged in him as district judge and ex-officio judge of the circuit court. It has many useful features, which have been pointed out at some length by the Senator from Utah. The saving of expense and the simplification of procedure and practice are the things that justly commend it to lawyers who are actively identified with the business that transpires in those courts. Such a thing as, for instance, an appeal on an admiralty case being tried by a circuit judge never happens, and yet it can not be tried by the district judge who heard it; it must stand there until some circuit judge finds an opportunity to go down to the circuit and try it. This results in cumbersome and unnecessary practice, and it inordinately increases the expense by maintaining useless clerks and imposing upon the judges the necessity of diverting business from the circuit courts to the district courts. It is an excrescence upon the judicial system of the United States that ought to be simplified in the manner pointed out here.

That is the result of my observation, and I think it is the result which the American Bar Association has reached, because they formulated and favored just this change. I have never yet heard an objection to it that did not either consist of a desire to continue certain clerks in office or a sentiment, such as has been expressed by my distinguished friend from Georgia [Mr. BACON], in favor of the continuance of things that are somewhat old and have in many respects vindicated the wisdom of those who prescribed them.

I think we have reached a crisis—probably so strong a word as that should not be used—but I think we have reached in the revision of the laws the necessity for just such a change as is made here. It will promote the simplicity of practice and it will very largely reduce the expense. It will assign to their appellate functions the judges of the circuit court, and it will reserve their right to appear upon the district bench, just as it reserves in favor of the judges of the Supreme Court of the United States whenever an occasion of sufficient importance seems to make it necessary, the right to sit in the circuit court. Judges of the district court habitually hold circuit court now, so much so that lawyers of middle age can scarcely remember the time when a circuit judge appeared to aid them. I think the reform is called for by the demands which have induced its incorporation into this bill. I do not quite appreciate the force of the suggestion that the present procedure be retained simply because it has been the law for so many years in the past.

Mr. HEYBURN. Mr. President, I merely want to say before closing that this change is recommended by two of the present Justices of the Supreme Court of the United States, and you will find in the RECORD of January 27, when this bill was under consideration, where they expressly recommended it. The American Bar Association has recommended it more than once. It has been recommended by every judge to whom it has been presented. I know of no exception. I have not brought the letters here, but I have a great deal of correspondence from the foremost lawyers of the United States and from judges who are in daily contact with the situation.

As the Senator from Washington [Mr. PILES] suggests, in some sections of the country the clerk opens two courts, one right after the other, and has to close two courts, when, as a matter of fact, there is but one judge sitting on the bench. There are two books lying before the clerk, one of the district court and the other of the circuit court. I think, if Senators have given this matter the attention which I hope they have, that their minds will rest easy as to the wisdom of this change.

Mr. BACON. Mr. President, there is no doubt that there are very grave reasons in support of the proposed change. At the same time, there are many to the contrary. I desire to state, in response to the suggestion of the Senator from Arkansas [Mr. CLARKE], that whatever may be the practice in his part of the country, in other parts of the country the circuit judges do try cases at nisi prius. I think I can say with confidence that the year never passes, and has not passed in the last 15 years, that the circuit judges do not preside at nisi prius in the circuit courts in my State and in other States of the fifth circuit. The Senator from Virginia [Mr. MARTIN], who sits next to me, says that it is still the practice in his circuit for the circuit judges to preside in the trial court. I am not informed——

Mr. SUTHERLAND. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Utah?

Mr. BACON. I do.

Mr. SUTHERLAND. Under the terms of the bill that will not be prevented in the future. The circuit judge may still hold court, only he will hold a district court instead of a circuit court.

Mr. BACON. Mr. President, I think the reply to that is that it is a matter of such grave importance that it ought to be examined into most thoroughly before we make the change, and therefore it ought to be considered, not in the way in which it can only be considered this evening, in an almost perfunctory manner, but that it ought to go to the Judiciary Committee, and it ought to be most thoroughly considered before it is determined upon.

What I was proceeding to say at the time the Senator from Utah [Mr. SUTHERLAND] made his suggestion was that I am not informed, as some Senators now say they are, of the action of the American Bar Association to the effect stated by them. I did not happen to be where I could be easily informed when the last meeting of the American Bar Association was had, but my information of their action, received from others, was to the contrary. I do know the fact that a very large body of lawyers who are members of that association joined in an extensive address, in which the reasons are set out at length why the particular change that is now proposed should not be had. That address was signed by lawyers from all of the nine circuits of the United States, prominent lawyers, headed by Mr. Choate, of New York, as one of them. I gave it to the Senator from New York [Mr. ROOT], and he now has it in his possession. I am sorry that I have not it here in order that it may be read. I had no idea that the Senator from Idaho proposed to have a final vote on this question this afternoon or I should have asked the Senator from New York to bring it here in order that it might be presented to this body.

Mr. ROOT. Mr. President, let me say that unfortunately I have not that paper here. I did not suppose that the bill would be pressed to a final passage this afternoon. It certainly is a paper entitled to very full and respectful consideration. I think, however, the action of the American Bar Association on this subject, to which reference has been made, was taken a good many years ago.

Mr. HEYBURN. Mr. President, I trust the Senator from Georgia will not ask that the bill go over. It has been a long story, and every Senator has had the opportunity to be heard. I sincerely hope that the Senator will not ask that it go over, because I am sure that the Senate is ready to act upon it now and get this bill in shape so that it may pass this and the other House of Congress at this session.

Mr. BACON. Mr. President, what I desired to call to the attention of the Senate was the fact that it is a great mistake to suppose that all lawyers are unanimous upon this subject; that the profession is agreed upon the propriety of this change. It is a change so radical in nature and so irrevocable when made that we, the conservative branch of the Congress, ought to pause and be certain of our step before we take it.

I have just been informed by the Senator from Louisiana——

Mr. CLARKE of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Arkansas?

Mr. BACON. Certainly.

Mr. CLARKE of Arkansas. Would it not have an enlightening effect on some of us for the Senator from Georgia to enumerate some of the reasons why he thinks the change ought not to be made, instead of telling us what is contained in a paper that certain lawyers have signed? Certainly I should like to know some reason why the change should not be made, and I have never yet heard one.

Mr. BACON. If the Senator will consent that the bill shall go over until another meeting, we will be prepared to present some reasons.

Mr. CLARKE of Arkansas. If they are so patent and so numerous the Senator ought to give some of them now.

Mr. BACON. Possibly it is my infirmity that I am not so well informed in these matters as my learned and distinguished and illustrious friend from Arkansas. I sometimes need a little preparation before I assume to say anything to the Senate, which shall be something which may not have occurred already to each and every Member of the body. Possibly the Senator from Arkansas is more fortunate in the fact that he does not need that opportunity. I do need it, and request it when I want it.

Mr. HEYBURN. Mr. President, I should like to say to the Senator from Georgia that the committee has not been favored with these protests or differing opinions to which he has referred. We have had this particular title under consideration for three years, and all that has come to the committee has been favorable to it. We have received the opinions of bar associations, judges, and lawyers from all over the country, and I was not aware——

Mr. BACON. The Senator will pardon me for saying that what I was about to say, at the time my learned and distinguished friend from Arkansas interrupted me, was that the Senator from Louisiana had informed me while I was standing upon the floor that since this matter has been up for consideration he has received a telegram from the president of the National Bar Association stating that the association would like to have the opportunity to further consider this matter before it is finally determined upon. Now there is some authoritative information on the subject. I will state that I myself have letters from circuit judges, in which they very gravely deprecate the change, and if I may have the apportunity I will take pleasure in presenting them to the Senate.

Mr. SUTHERLAND. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Utah?

Mr. BACON. I do.

Mr. SUTHERLAND. Does the Senator know of any reason that has been urged against this change, save the one that, under it, it is thought that the circuit judges will be prevented from sitting upon the trial bench?

Mr. BACON. Mr. President, I will say that I have a letter addressed to me by Judge Pardee, of the fifth circuit, in which, with reference to this particular proposed change, he sets forth the reasons why he thinks it would be to the disadvantage of the proper administration of the law—not simply the general question as to whether or not there should be a change the effect of which may be misunderstood by some people, but with the provision before him.

Mr. SUTHERLAND. Does the Senator recall any other reason that has been urged by lawyers?

Mr. BACON. I will repeat to the Senator from Utah what I said to the Senator from Arkansas, that I prefer, if I may have the opportunity to do so, to present the reasons properly and fully and not simply to be put upon the stand and be catechised as to particular reasons. I prefer that I shall get the paper which I handed to the Senator from New York, which probably would make four or five printed pages, or perhaps more, signed by the most distinguished lawyers from the nine circuits in the United States, all of them members of the National Bar Association and all of them signing as from the different circuits.

I would prefer that that should be presented in a way that the Senate could have a connected and comprehensive statement of the objections rather than that I should respond to cross-questions and give some few fragmentary and imperfect suggestions in regard to the matter.

Mr. SUTHERLAND. I hope the Senator from Georgia will not think that I was attempting to cross-question him, for I had no such idea; but I will say to the Senator, if he will permit me——

Mr. BACON. I had been subjected to it by the Senator from Arkansas, and I thought his colleague upon the committee was doing the same thing.

Mr. CLARKE of Arkansas. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Arkansas?

Mr. BACON. I do.

Mr. CLARKE of Arkansas. I beg also to enter a disclaimer. I thought the Senator was approaching the subject in the nature of an objection to the methods by which the measure was brought forward. I thought at this late hour that if there were a great many reasons against the proposed change I should like to know what they were, because I have no interest in the matter, except the public interest, and only have a desire to meet what seems to be the public demand. I do not want to be understood as having offensively or intrusively addressed any inquiry to the Senator from Georgia; and if he has such an impression, I take the opportunity of disclaiming any such intention.

Mr. BACON. On the contrary, Mr. President, I thought the Senator was trying to add some gayety to the occasion, and not that he intended to be offensive in any way whatever.

The VICE PRESIDENT. The question is on the motion of the Senator from New York [Mr. ROOT] to strike out section 274.

Mr. ROOT. Mr. President, I feel very reluctant not to assent to the appeal of the Senator from Idaho [Mr. HEYBURN]. I know how long and faithfully he has labored over this bill, what excellent work he has done, and how grateful we always ought to be to him for doing more than his share of the work of the Senate upon it; but I feel as if I owe it to the gentlemen whose names were subscribed to the paper the Senator from Georgia [Mr. BACON] handed to me, to see that that comes before the Senate before final action upon this matter.

The Senator from Idaho has made very great progress with the bill to-day. He has got it out of the Committee of the Whole and into the Senate; he has got it where there is but one question to determine, which can be determined very shortly by a single vote, and I think the bill might well go over until to-morrow, and that really no very great hardship would be caused by yielding to a desire to look into this matter further.

Mr. HEYBURN. Mr. President, then I merely desire to suggest let us vote on the amendment and have a yea-and-nay vote if necessary. Let us make progress. The amendment is offered in good faith, and let us vote on it in good faith.

Mr. LODGE. Mr. President, this bill has been before the Senate for a year. As I understand, it proceeds on the reform which is embodied in the consolidation of these courts, and it seems certainly on this phase at least to be a very sensible reform. As I have said, the bill has been before the Senate for a year. The committee have taken the utmost trouble; they have brought the bill up here day after day; the Senate has had ample opportunity to consider every part of it; and now at the last moment, when the bill has actually gone out of the Committee of the Whole and is in the Senate, to propose an amendment which practically destroys the bill seems to me not only rather severe on the committee but a pretty serious waste of the time of the Senate. If the bill is all wrong ab initio, we ought to have dealt with it at the start and not now after having spent hours and days of labor over it.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from New York [Mr. ROOT], to strike out section 274.

The amendment was rejected.

Mr. CRAWFORD. I should like to ask the Senator from Idaho, as I was absent when the bill was being considered, whether the amendment to section 104, relating to the divisions in the State of South Dakota, was adopted—the one proposed the other day.

Mr. HEYBURN. I think the amendment offered by the Senator from South Dakota was adopted, and I think the Senator can rely upon its being kept in the bill.

Mr. CRAWFORD. That is entirely satisfactory.

Mr. HEYBURN. I will refer back to it if the Senator desires.

Mr. CRAWFORD. I only wanted to make sure that it had been adopted.

The VICE PRESIDENT. The Secretary's records show that the amendment was agreed to.

Mr. CRAWFORD. To section 104?

The VICE PRESIDENT. To section 104.

Mr. BRISTOW. Mr. President, of course this is a legal matter, and I have no technical knowledge in regard to it, but with a half a dozen Senators in the Chamber a few moments ago I happened to hear, in the low conversation that was going on between the Senator in charge of the bill and another Senator, that an amendment had been adopted increasing the salaries of all of the district judges in the United States from $6,000 to $9,000 a year.

Mr. HEYBURN. There has been no amendment of the kind adopted, and there has been no increase in the salaries of judges, and they are not dealt with except according to the lines of existing law.

Mr. BRISTOW. Mr. President, I repeat what I said before I was interrupted by the Senator from Idaho, that I was sitting in the Chamber with a half dozen other Senators and I heard it stated that an amendment had been adopted increasing the salaries of United States district judges from $6,000 to $9,000 a year, and another amendment was offered increasing the salaries of the circuit judges of the United States from $7,000 to $10,000 a year. I then suggested that so important an amendment as that should certainly have a quorum of the Senate present to consider it. The quorum was called, and the amendment was withdrawn. The section, as I understand it, was reconsidered, and the amendment that had been adopted increasing the salaries of district judges was withdrawn.

What I desire to inquire now is, How much legislation of this kind has been incorporated into the bill when the Senate was paying no attention to what was going on? How many amendments are there that change the laws of the country that those of us would like to vote against if we knew what they were?

Mr. HEYBURN. I can not tell, except from the fact that the Senator from Kansas is looking directly at me, whether he is propounding a question to me or whether he is in the position he was in a few moments ago when he was interrupted by my suggestion; I can not tell.

Mr. BRISTOW. To relieve the Senator's mind I will propound the question, How many amendments to the laws of this kind have been incorporated into the bill?

Mr. HEYBURN. Of course, I assume that the Senator from Kansas has given conscientious attention to the legislation of this body from beginning to end and that he is pretty thoroughly familiar with this measure. It has been almost constantly before Congress since the 7th day of March last, and it has proceeded upon the lines of incorporating no new legislation into it, except where new legislation was necessary for the purpose of combining statutes that were sometimes inconsistent or apparently conflicting. There is on the Senator's desk a statement that was furnished him, a copy of which I have in my hand, which tells in plain English every change made in every section of this law, and there is also in the Senator's desk a volume, which was placed there on the 7th of March last, which contains the provisions as found in the bill, and opposite that the existing law in full. That has been accessible to every Senator since that time.

And then, in order that Senators' minds might be refreshed, at this session of Congress I again had laid upon their desks, placed in the custody of the proper officers, other copies. So the Senator has had an opportunity to inform himself. Therefore I will simply say that the proposed amendment affecting the judges' salaries was withdrawn; no action was taken upon it; and it is neither a menace of anything that is proposed to be done or evidence of what was done.

Mr. BRISTOW. Mr. President, I desire to state that I had understood, after inquiring of a number of Senators, that there was no new legislation being incorporated into this bill; that it was simply the codifying of existing statutes without changing them; and I have not given that attention to it that I possibly should, because I am not a lawyer, and therefore not skilled in the interpretation of legal phrases. I have inquired frequently of Senators who are lawyers and perfectly capable of understanding the legal phrases that might be incorporated, if they thought any material changes were being made, and they said "No; and then the bill will never pass anyway, and what is the difference?" That reply has been made to me many times. I spoke to a Senator this afternoon, when I called for a quorum, and suggested that they were largely increasing the salaries of the Federal judges by this bill. "Oh," he says, "it will never pass anyway; what is the difference?"

But the bill is about to pass. The effort to incorporate these new amendments into this bill has made me somewhat suspicious. Certainly they were not simply the codification of existing law; and I am inquiring now if other amendments of a similar character have been incorporated into it when the Senate was paying no attention to what was going on, Senators believing that no new legislation was being proposed. That is the question I am asking.

Mr. HEYBURN. I endeavored to answer that question. I would suggest, in passing, that I think a Senator who would make a remark of the kind suggested by the Senator from Kansas would hope that it would be regarded as a confidential communication, because it is not the attitude toward legislation that a Senator would wish to confess—that he was neglecting a duty because he thought a bill would not pass.

Now, I think I have fully answered the Senator's suggestion in regard to new legislation, and, as I think, the Senator might perhaps have been fully informed had he been present when the bill was under consideration.

Mr. BRISTOW. I have been present almost continuously and think I have a very good record, especially as compared with other Senators, in my attendance here, even while this bill was being considered, which heretofore has been the signal for the desertion of Senators from the Chamber. I have not often deserted.

Mr. PILES. Mr. President, the Senator from Kansas seems to think that the matter of increasing the district and circuit judges' salaries, and those of the Supreme Court of the United States, is a new question in this body. It is not a new question here. It has been debated on the floor of the Senate time and time again since I have been here. I have supported amendments of similar import upon different occasions in the Senate. I short time ago an amendment was proposed to this bill in the House of Representatives increasing the salaries of judges along the lines of the proposed amendment which I offered. I do not now recall the extent of the increase. The increases which I sought to have incorporated into this bill did not come as a committee amendment. They came from me as an individual, although I am a member of this committee, and I offered the amendment because it has been considered before the Judiciary Committee time and time again, and that committee has favorably acted upon the proposed increase in the salaries of the district judges, the circuit judges, and the Justices of the Supreme Court of the United States.

Speaking for myself, I do not think this Government can justify itself in paying to the distinguished men who serve our country in the capacity in which they do the meager salaries which we now pay them, and, so far as I am concerned, upon every occasion I shall use my voice and vote, when necessary, to give them a reasonable salary for the services which they render to this country.

Mr. BRISTOW. I should like to inquire if the Senator from Washington had any difficulty in getting an able lawyer to fill the position of district judge in his State at the salary fixed by law when the recent vacancy occurred. I desire to state that in my judgment the United States judges are the best paid of all the Federal officeholders, with the exception of the President. Their life tenure, without additional expense incident to their office, and the great honor of the position makes the place exceedingly attractive to lawyers of ability and renown.

Mr. PILES. I do not care to take up any of the time of the Senate in a colloquy of this character. I withdrew my amendment at the earnest solicitation of the Senator from Idaho, who has labored incessantly for about three years in this work, as I know, because I have been with him, and he was exceedingly anxious to get the bill passed this afternoon. He said the amendment would lead to debate, and asked me as a personal favor to withdraw my amendment. I did so, and I will not take up further time in a colloquy of the character proposed by the Senator from Kansas.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. KEAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 12 minutes spent in executive session the doors were reopened, and (at 4 o'clock and 53 minutes p. m.) the Senate adjourned until to-morrow, Thursday, February 9, 1911, at 12 o'clock meridian.

NOMINATIONS.

Executive nominations received by the Senate February 8, 1911.

SURVEYOR OF CUSTOMS.

Luther C. Warner, of New York, to be surveyor of customs for the port of Albany, in the State of New York, in place of William Barnes, jr., whose term of office will expire by limitation February 28, 1911.

PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE.

Asst. Surg. Robert A. Herring to be passed assistant surgeon in the Public Health and Marine-Hospital Service of the United States, to rank as such from October 5, 1910.

REGISTERS OF LAND OFFICE.

William F. Haynes, of Washington, to be register of the land office at Waterville, Wash., his term having expired May 10, 1910. (Reappointment.)

John W. Price, of Wyoming, to be register of the land office at Douglas, Wyo., his term expiring February 12, 1911. (Reappointment.)

RECEIVERS OF PUBLIC MONEYS.

Alfred C. Steinman, of Washington, to be receiver of public moneys at North Yakima, Wash., his term having expired January 28, 1911. (Reappointment.)

Lucius B. Nash, of Spokane, Wash., to be receiver of public moneys at Spokane, Wash., vice Samuel A. Wells, term expired.

John Edward Shore, of Leavenworth, Wash., to be receiver of public moneys at Waterville, Wash., vice Walker A. Henry, term expired.

Samuel Slaymaker, of Wyoming, to be receiver of public moneys at Douglas, Wyo., his term expiring February 12, 1911. (Reappointment.)

THIRD ASSISTANT POSTMASTER GENERAL.

James J. Britt, of North Carolina, to be Third Assistant Postmaster General, to which office he was appointed during the last recess of the Senate, vice Abraham L. Lawshe, resigned.

APPOINTMENTS IN THE ARMY.

MEDICAL RESERVE CORPS.

To be first lieutenants in the Medical Reserve Corps with rank from February 6, 1911.

Omar Heinrich Quade, of Missouri.
Guy Logan Qualls, of Missouri.
Leopold Mitchell, of Louisiana.
Philip Barry Connolly, of New York.

POSTMASTERS.

IDAHO.

Charles H. Andrews to be postmaster at Wendell, Idaho. Office became presidential July 1, 1910.

NORTH DAKOTA.

H. F. Irwin to be postmaster at Tioga, N. Dak. Office became presidential January 1, 1911.

OHIO.

Lucius A. Austin to be postmaster at Granville, Ohio, in place of Lucius A. Austin. Incumbent's commission expired January 31, 1911.

Joseph A. Donnelly to be postmaster at New Lexington, Ohio, in place of Joseph A. Donnelly. Incumbent's commission expires February 12, 1911.

John B. Mullie to be postmaster at Rittman, Ohio. Office became presidential October 1, 1910.

William H. Tucker to be postmaster at Toledo, Ohio, in place of William H. Tucker. Incumbent's commission expired January 29, 1911.

PENNSYLVANIA.

Ada U. Ashcom to be postmaster at Ligonier, Pa., in place of Ada U. Ashcom. Incumbent's commission expires March 2, 1911.

William W. Wren to be postmaster at Boyertown, Pa., in place of William W. Wren. Incumbent's commission expires February 28, 1911.

RHODE ISLAND.

James T. Caswell to be postmaster at Narragansett Pier, R. I., in place of James T. Caswell. Incumbent's commission expires February 28, 1911.

George E. Gardner to be postmaster at Wickford, R. I., in place of George E. Gardner. Incumbent's commission expired January 10, 1911.

SOUTH DAKOTA.

Frank E. Saltmarsh to be postmaster at Miller, S. Dak., in place of Frank E. Saltmarsh. Incumbent's commission expires March 1, 1911.

TENNESSEE.

John T. Hale to be postmaster at Trenton, Tenn., in place of John T. Hale. Incumbent's commission expired February 12, 1907.

William A. Pamplin to be postmaster at Fayetteville, Tenn., in place of William A. Pamplin. Incumbent's commission expired May 7, 1910.

William Spellings to be postmaster at McKenzie, Tenn., in place of William Spellings. Incumbent's commission expired January 29, 1910.

TEXAS.

Samuel J. Hott to be postmaster at St. Jo, Tex., in place of Samuel J. Hott. Incumbent's commission expired January 16, 1910.

John B. Schmitz to be postmaster at Denton, Tex., in place of John B. Schmitz. Incumbent's commission expired April 3, 1910.

Jacob J. Utts to be postmaster at Canton, Tex., in place of Jacob J. Utts. Incumbent's commission expired January 28, 1911.

WISCONSIN.

Robert Downend to be postmaster at Osceola, Wis., in place of Robert Downend. Incumbent's commission expires February 28, 1911.

Herbert A. Pease to be postmaster at Cumberland, Wis., in place of Herbert A. Pease. Incumbent's commission expires February 13, 1911.

James D. Strickland to be postmaster at New Lisbon, Wis., in place of James D. Strickland. Incumbent's commission expires March 1, 1911.

CONFIRMATIONS.

Executive nominations confirmed by the Senate February 8, 1911.

ASSOCIATE JUDGE, COURT OF CUSTOMS APPEALS.

George E. Martin to be associate judge of the Court of Customs Appeals.

UNITED STATES MARSHALS.

George H. Green to be United States marshal, northern district of Texas.

Calvin G. Brewster to be United States marshal, southern district of Texas.

SURVEYOR GENERAL OF NEVADA.

Matthew Kyle to be surveyor general of Nevada.

RECEIVER OF PUBLIC MONEYS.

Louis T. Dugazon to be receiver of public moneys at Baton Rouge, La.

REGISTERS OF LAND OFFICE.

John Franklin Nuttall to be register of the land office at Baton Rouge, La.

David J. Girard to be register of the land office at Eureka, Cal.

PROMOTIONS IN THE NAVY.

Asst. Surg. Alexander B. Hayward to be a passed assistant surgeon.

Paymaster Edmund W. Bonnaffon to be a pay inspector.

Naval Constructor Guy A. Bisset, with the rank of lieutenant, to be a naval constructor, with the rank of lientenant commander.

Second Lieut. Franklin H. Drees to be a first lieutenant in the Marine Corps.

POSTMASTERS.

ARIZONA.

Edward D. Holbrook, Silverbell.

COLORADO.

R. Lincoln Pence, Ault.

CONNECTICUT.

Leopold J. Curtiss, Norfolk.
Frank G. Letters, Putnam.

ILLINOIS.

William M. Checkley, Mattoon.

KANSAS.

John K. Cochran, Pratt.
Samuel Forter, Marysville.
William R. Jones, Hanover.
Robert D. Rodgers, Syracuse.
Lissie H. Shoup, Cimarron.

LOUISIANA.

Benjamin Deblieux, Plaquemine.
Goldman L. Lassalle, Opelousas.

MAINE.

Theophilus H. Sproud, Winterport.

MISSOURI.

John W. Ayers, Callao.
William T. Elliott, Houston.

NEW JERSEY.

Alfred M. Jones, Summit.

NEW YORK.

Warren B. Ashmead, Jamaica.
Willoughby W. Babcock, Prattsburg.
George H. Keeler, Hammondsport.
Adolph Lienhardt, Stapleton.
David G. Montross, Peekskill.
Robert Murray, Warrensburg.
Fred O'Neil, Malone.
John O. Thibault, Clayton.
Everett I. Weaver, Angelica.

NORTH CAROLINA.

Frank B. Benbow, Franklin.

PENNSYLVANIA.

J. G. Lloyd, Ebensburg.
John C. F. Miller, Rockwood.

VERMONT.

Stanley R. Bryant, Windsor.

VIRGINIA.

Robert A. Anderson, Marion.

WEST VIRGINIA.

Wilbur C. Baxter, Sutton.

WITHDRAWALS.

Executive nominations withdrawn February 8, 1911.

John T. Bolton to be postmaster at Carlsbad Springs, N. Mex.
Elmer B. Colwell, of Oregon, to be United States marshal, district of Oregon.

RECONSIDERATION.

The Senate reconsidered the vote by which the nomination of Elmer B. Colwell to be marshal for the district of Oregon was rejected on the 6th instant.

INJUNCTION OF SECRECY REMOVED.

The injunction of secrecy was removed from the following conventions:

Concerning the protection of trade-marks. (Ex. G, 61st Cong., 3d sess.)

Relating to inventions, patents, designs, and industrial models. (Ex. F, 61st Cong., 3d sess.)

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *February 8, 1911.*

The House met at 12 o'clock m.

Prayer by the Chaplain, Rev. Henry N. Couden, D. D.

The Journal of the proceedings of yesterday was read and approved.

CALL OF THE HOUSE.

Mr. DWIGHT. Mr. Speaker, I make the point of order that there is not a quorum present.

The SPEAKER. Evidently there is not a quorum present, and the Chair sustains the point of order.

Mr. DWIGHT. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The SPEAKER. The Doorkeeper will close the doors; the Sergeant at Arms will notify absentees, and the Clerk will call the roll.

The Clerk called the roll, and the following Members failed to answer to their names:

Alexander, N. Y.	Fornes	Langham	Rothermel
Andrus	Fowler	Langley	Sabath
Barchfeld	Gardner, Mich.	Law	Saunders
Barclay	Garner, Pa.	Legare	Sherley
Bartlett, Nev.	Gill, Md.	Lindsay	Simmons
Bates	Gillespie	Lundin	Slemp
Bennet, N. Y.	Goebel	McCreary	Smith, Mich.
Bingham	Graham, Pa.	McCredie	Snapp
Boehne	Hamill	McGuire, Okla.	Southwick
Burleigh	Hardwick	McKinlay, Cal.	Sperry
Cantrill	Hawley	McKinney	Stanley
Capron	Hayes	Maynard	Sterling
Clark, Mo.	Heald	Miller, Kans.	Stevens, Minn.
Conry	Hill	Millington	Sturgiss
Coudrey	Hinshaw	Morgan, Mo.	Swasey
Dalzell	Hobson	Mudd	Taylor, Colo.
Davis	Hollingsworth	Murdock	Taylor, Ohio
Denby	Howard	Needham	Thomas, Ohio
Denver	Howell, Utah	Palmer, H. W.	Townsend
Dickson, Miss.	Hubbard, W. Va.	Patterson	Vreeland
Douglas	Huff	Payne	Wallace
Edwards, Ky.	Hughes, W. Va.	Pickett	Washburn
Elvins	Johnson, Ohio	Poindexter	Weisse
Englebright	Keifer	Pou	Wheeler
Fish	Knapp	Rhinock	Willett
Fordney	Kronmiller	Riordan	Wood, N. J.

The SPEAKER. Two hundred and eighty gentlemen are present—a quorum.

Mr. DWIGHT. Mr. Speaker, I move that further proceedings under the call be dispensed with.

The motion was agreed to.

The SPEAKER. The Doorkeeper will open the doors.

ARMY APPROPRIATION BILL.

Mr. HULL of Iowa. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 31237) making appropriations for the Army, disagree to all of the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Iowa asks unanimous consent to take from the Speaker's table the Army appropriation bill, disagree to the Senate amendments, and ask for a conference. Is there objection?

Mr. HAY. Mr. Speaker, I object.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was granted to Mr. HUFF to withdraw from the files of the House, without leaving copies, the papers in the case of William Conner, Sixty-first Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. CLARK of Missouri, indefinitely, on account of sickness.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Crockett, one of its clerks, announced that the Senate had passed with amendments bill of the following title, in which the concurrence of the House of Representatives was requested:

H. R. 31237. An act making appropriation for the support of the Army for the fiscal year ending June 30, 1912.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the bills and joint resolution of the following titles:

S. 4239. An act to amend section 183 of the Revised Statutes;

S. 6702. An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto;

S. 6842. An act to authorize the Secretary of the Interior to withdraw public notices issued under section 4 of the reclamation act, and for other purposes;

S. 8916. An act extending the time for certain homesteaders to establish residence upon their lands; and

S. J. Res. 133. Joint resolution providing for the filling of a vacancy to occur on January 23, 1911, in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 10457. An act to amend section 6 of the currency act of March 14, 1900, as amended by the act approved March 4, 1907; and

S. 10404. An act to authorize the Secretary of War to grant a right of way through lands of the United States to the Buckhannon & Northern Railroad Co.

The message also announced that the Senate had passed the following resolution:

Resolved, That the Secretary be directed to furnish to the House of Representatives, in compliance with its request, a duplicate engrossed

copy of the bill (S. 7971) for the allowance of certain claims reported by the Court of Claims, and for other purposes.

The message also announced that the Vice President had appointed Mr. CLARKE of Arkansas and Mr. GALLINGER members of the joint select committee on the part of the Senate, as provided for in the act of February 16, 1889, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the War Department.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED.

The SPEAKER announced his signature to enrolled bills and joint resolution of the following titles:

S. 6702. An act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto;

S. 6842. An act to authorize the Secretary of the Interior to withdraw public notices issued under section 4 of the reclamation act, and for other purposes;

S. 4239. An act to amend section 183 of the Revised Statutes;

S. 10221. An act authorizing the Secretary of Commerce and Labor to exchange the site for the immigrant station at the port of Boston;

S. 8916. An act extending the time for certain homesteaders to establish residence upon their lands;

S. 6011. An act to provide for the lading or unlading of vessels at night, the preliminary entry of vessels, and for other purposes;

S. 9552. An act to authorize the construction of a bridge across St. John River, Me.;

S. 9449. An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln; and

S. J. Res. 133. Joint resolution providing for the filling of a vacancy, which occurred on January 23, 1911, in the Board of Regents of the Smithsonian Institution of the class other than Members of Congress.

SENATE BILL REFERRED.

Under clause 2 of Rule XXIV, Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 10404. An act to authorize the Secretary of War to grant a right of way through lands of the United States to the Buckhannon & Northern Railroad Co.; to the Committee on Rivers and Harbors.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Curtis, one of its clerks, announced that the Senate had passed without amendment bills of the following titles:

H. R. 30890. An act to authorize the Chicago Great Western Railroad Co., a corporation, to construct a bridge across the Mississippi River at St. Paul, Minn.; and

H. R. 20072. An act for the relief of Hans N. Anderson.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to bills of the following titles:

S. 9552. An act to authorize the construction of a bridge across St. John River, Me.;

S. 9449. An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln;

S. 6011. An act to provide for the lading or unlading of vessels at night, the preliminary entry of vessels, and for other purposes; and

S. 5379. An act for the erection of a statue of Maj. Gen. Nathanael Greene upon the Guilford battle ground, in North Carolina.

CODIFICATION OF THE LAWS.

Mr. OLMSTED assumed the chair as Speaker pro tempore.

Mr. MOON of Pennsylvania. Mr. Speaker, I call up the bill H. R. 23377, the codification bill, as the unfinished business.

The SPEAKER pro tempore. The Chair desires to state the parliamentary situation. One week ago, when this bill was last under consideration, the gentleman from Georgia [Mr. BARTLETT] offered an amendment. That amendment, upon a division, was declared lost, and the gentleman thereupon demanded tellers. A sufficient number did not rise to second the demand for tellers. Thereupon the gentleman from Georgia made the point of no quorum, and the House immediately adjourned.

Mr. BARTLETT of Georgia. Mr. Speaker, I desire to withdraw the demand for tellers and withdraw, also, the amendment that I offered, and to substitute in its place the one which I now send to the Clerk's desk.

The SPEAKER pro tempore. If the gentleman from Georgia withdraws his demand for tellers, then the amendment which he offered stands defeated.

Mr. MOON of Pennsylvania. I understand the gentleman from Georgia to withdraw that amendment.

Mr. BARTLETT of Georgia. No; that is defeated. I offer now the amendment which I send to the Clerk's desk and ask to have read.

The Clerk read as follows:

Insert after line 21, page 143, the following as a new section:

"The Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provision of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property, and for the prevention of frauds in insurrectionary districts within the United States, and acts amendatory thereof,' where the property so taken or when so sold the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court, and full jurisdiction is given to said court to adjudge said claims, any statute of limitations to the contrary notwithstanding."

Mr. HUBBARD of West Virginia. Mr. Speaker, I desire to make a parliamentary inquiry. When this bill was under consideration on last Wednesday all amendments then pending to section 116 of the bill were, at the instance of the chairman of the committee, passed over until to-day, then to be the first thing considered. I have no objection to the consideration and disposition of the amendment now offered by the gentleman from Georgia, if it is understood that then the amendments pending to section 116 be considered; otherwise I will have to insist on the arrangement which, by unanimous consent, was made, that the amendments pending to section 116 should be the first thing considered to-day.

Mr. BUTLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BUTLER. Mr. Speaker, I understand the gentleman from Georgia has offered an amendment to this bill——

Mr. BARTLETT of Georgia. The gentleman is mistaken; I have not offered it. It is not along the line to which the gentleman has reference.

Mr. BUTLER. I can not hear the gentleman from Georgia. I would, if I could; but I can not.

The SPEAKER pro tempore. Gentlemen will suspend until the Chair obtains certain information from the Journal clerk as to amendments offered and laid over on a previous day and the orders then made by the House as to the time when they should be considered.

Mr. HUBBARD of West Virginia. Mr. Speaker, the arrangement was made on that day when the bill was first called up.

The SPEAKER pro tempore. The Chair remembers that certain amendments were held over one week ago, which were to come up for action to-day.

Mr. HUBBARD of West Virginia. That was expressly stated.

Mr. MOON of Pennsylvania. I will say, Mr. Speaker, that the request was made by me for unanimous consent on the condition that it should be first considered when the bill was first again under consideration.

The SPEAKER pro tempore. Accepting the statement of the gentleman from Pennsylvania as correct, without any further delay to ascertain from the clerk, the Chair will state to the gentleman from Georgia that the amendments and sections which were passed over one week ago will be first in order, after which the gentleman from Georgia will be recognized.

Mr. BUTLER. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BUTLER. I want to move at the proper time to strike out a part of section 166, and I do not want to lose my opportunity, and my purpose in arising is to ask the Chair whether or not it will be lost if the provision offered by the gentleman from Georgia is considered before I have that opportunity?

Mr. BARTLETT of Georgia. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. BARTLETT of Georgia. I desire to make a parliamentary inquiry of the Chair, if the Chair will listen.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BARTLETT of Georgia. Mr. Speaker, I desire to offer to amend section 166, and this amendment which I offered on Wednesday last was an amendment to that section. Now, I have offered the one which I have sent to the Clerk's desk not as an amendment but as an independent section, and what I desire in reference to that is to have that pending for all the purposes that may be required, with the privilege of any Member of the House, the gentleman from Pennsylvania, myself, or anyone else, to amend section 166, if possible. That is all. That would not deprive a Member of offering an amendment to

section 166, and I offer this as an independent section. Would it, Mr. Speaker?

The SPEAKER pro tempore. The Chair desires to state that, having examined the orders of the House as kept by the Journal clerk, it would appear that at this time the amendment offered by the gentleman from New York [Mr. PARSONS], the amendment offered by the gentleman from West Virginia [Mr. HUBBARD], and another by Mr. PARKER of New Jersey, and one by Mr. MANN of Illinois will be in order at this time before the amendment offered by the gentleman from Georgia.

Mr. BARTLETT of Georgia. Another parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BARTLETT of Georgia. If that matter is disposed of, it would be then in order to consider the amendment I have sent to the desk.

Mr. PARSONS. Mr. Speaker, there was another section passed over also.

The SPEAKER pro tempore. The Chair will state that the amendments which were passed over to be considered to-day are first in order, if insisted upon, and until they have been disposed of, the section is open to amendment, including further amendments which may be made to this section. After that the amendment of the gentleman from Georgia will be in order.

Mr. CULLOP. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. CULLOP. Mr. Speaker, I rise for the purpose of offering an amendment to a provision of the bill that it may be pending, to be taken up and considered at some other time. I desire to have it read and to have it put in the RECORD, so Members will be advised as to what it is.

The SPEAKER pro tempore. The gentleman from Indiana [Mr. CULLOP] asks unanimous consent to offer an amendment at this time, and have it be considered as pending. Is there objection? [After a pause.] The Chair hears none. The Clerk will report the amendment.

The Clerk read as follows:

SEC. 27a. That in cases tried by a jury, the court, in charging the jury, shall only instruct as to the law applicable to the case.

SEC. 27b. In all cases tried by a jury, if there shall be any evidence given by the parties in support of any affirmative issue tending to support all the material allegations thereof, it shall be the duty of the court to submit the case to the jury, trying the same for its consideration and determination under proper instructions governing the law applicable to said issue or issues.

Mr. MOON of Pennsylvania. Mr. Speaker, I understand that the gentleman from Indiana [Mr. CULLOP] desires only to have this pending.

Mr. CULLOP. That is all.

Mr. MOON of Pennsylvania. But I desire to reserve all points of order on these two pending amendments. I understand they are not to be discussed at this time.

The SPEAKER pro tempore. This appears to be an amendment to a provision of a bill which has already been passed. It can be returned to only by unanimous consent, and unanimous consent was not included in the request.

Mr. MOON of Pennsylvania. Mr. Speaker, therefore I reserve all points of order.

The SPEAKER pro tempore. The Clerk will report the amendments pending, coming from the last day when this bill was considered.

The Clerk read as follows:

Amendment proposed by Mr. PARSONS:

"Amend section 116 by adding at the end thereof, after the word 'circuit,' in line 19, page 120, the words 'and shall have throughout his circuit the powers and jurisdiction of a district judge.'"

The amendment offered by the gentleman from New Jersey [Mr. PARKER]:

"Insert after the word 'and' the following words, 'as well as the circuit justices.'"

The sentence will then read as follows:

"Each circuit judge shall reside in the circuit and, as well as the circuit justices, shall have throughout his circuit the powers and jurisdiction of a district judge."

To which the gentleman from West Virginia [Mr. HUBBARD] offered a substitute, as follows:

"Substitute for amendment proposed by Mr. PARSONS to section 116:

"'District court shall be held by a circuit judge of the circuit or by a district judge duly appointed or designated for the district sitting alone, or by such circuit judge and district judge sitting together.

"'When such judges sit together the judgment or decree shall be rendered in conformity with the circuit judge. Cases may be heard by each of the judges holding a district court sitting apart by direction of the circuit judge, who shall designate the business to be done by each.'"

Mr. HUBBARD of West Virginia. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise?

Mr. HUBBARD of West Virginia. For the purpose of discussing that amendment, and, in addition thereto, the alternative proposition.

Mr. MOON of Pennsylvania. I understand the question now is on the amendment offered by the gentleman from New Jersey [Mr. PARKER].

The SPEAKER pro tempore. That is correct. And upon that the gentleman from West Virginia [Mr. HUBBARD] desires to be heard.

Mr. MOON of Pennsylvania. I do not know whether the gentleman from New Jersey desires to be heard on that or not.

Mr. PARKER. The gentleman from New Jersey has already spoken on that amendment, and I think I have exhausted my time.

Mr. MOON of Pennsylvania. I desire to call the attention of the House to this amendment.

The SPEAKER pro tempore. The gentleman from West Virginia [Mr. HUBBARD] has been recognized.

Mr. HUBBARD of West Virginia. I will cheerfully yield to the chairman of the committee for that purpose.

Mr. Speaker, I desire to discuss the general subject to which the substitute as well as these amendments relate. If the chairman of the committee desires to be heard on the amendment offered by the gentleman from New Jersey, I desire to give way to him.

Mr. MOON of Pennsylvania. Mr. Speaker, I want to say just one word. That was discussed by me also at the time the amendment was pending. The object of this amendment is to put a circuit justice who is a Justice of the Supreme Court of the United States into the district court as one of the judges of that court and to make him a constituent element of that court. That proposition, in my judgment, ought to be voted down.

Mr. PARKER. Will the gentleman yield?

Mr. MOON of Pennsylvania. Certainly.

Mr. PARKER. Is he not now a constituent justice of the circuit court and always has been, and is not the court he is now put into the same circuit court?

Mr. MOON of Pennsylvania. He is at the present time one of the justices of the circuit court, but the act that creates him as such limits the necessity of his visits to that circuit court to once in two years. I think every practicing lawyer knows how that duty is performed.

We all know that the Supreme Court Justices have no time to visit the circuit courts of appeals and take part in their deliberations, much less now to be put into the district court, of which they never were a part. We all know the time of the Supreme Court Justices is so occupied that they are seeking at the hands of this House relief from the pressure of a crowded calendar. They can not keep up with the litigation of the country.

In 1869 the necessity for their visiting the circuit courts was limited to once in two years, and that duty is not performed at greater intervals—I have no authority to justify me in saying that they do not perform the duty—but I do know from the necessities of the case that they must perform them generally in a perfunctory manner.

Never in our judicial scheme was a Justice of the Supreme Court qualified, much less required, to sit in the district court. He was originally an important factor in the then circuit court, but when the original jurisdiction of that circuit court was practically taken away by the act of 1891, or when its duties became chiefly of the appellate court, the Supreme Court Justice sat in the appellate court only. Now, it would be a great step backward, it would, in my judgment, if it means anything, seriously embarrass the work of the Supreme Court, and I ask that the amendment be not accepted.

Mr. HUBBARD of West Virginia. Mr. Speaker, the committee on the revision of this chapter, which has devoted to this work so much ability and industry, by revision proposes to abolish, not the circuit court in reality, but to abolish the name of the circuit court, and to consolidate with the present powers and jurisdiction of that court the present powers and jurisdiction of the district court—to give to that newly proposed consolidated court the name of district court. But I think gentlemen would be misled if they follow the suggestion of the chairman of the committee that this is to be considered merely as the district court. The newly proposed court is practically the former circuit court, so far as the great body of litigation with which that court has dealt is concerned, so that what is now christened the district court will in reality, if this bill be passed, be the former circuit court. I think the amendment proposed by the gentleman from New York [Mr. PARSONS] is proper. In principle I favor the amendment proposed by the gentleman from New Jersey [Mr. PARKER]. Just how much practical value that may have I am not prepared to say.

But, Mr. Speaker, neither of these amendments goes far enough. Under the existing law a very convenient and flexible

way of transacting the business of the courts is provided in that not merely the circuit justice but the circuit judge and the district judge can hold the circuit court, what will now, under this bill, be the district court. If the district judge be disqualified for any reason the circuit judge can now go on the bench at once and try that case or he can hold the whole term of the court, and a circuit justice may do the same thing.

Under the existing law, if there be an important case, a case which ought to be heard fully and carefully in the first instance, about which there may be popular clamor or deep and bitter feeling between litigants, two of those judges may hold the court, sitting together. Under this revision as proposed, these facilities for transacting business will be taken away.

Again, under the existing system, if there be work enough for two judges, two judges may sit separately if the circuit judge so directs. So, Mr. Speaker, the amendment I have proposed is intended and does in the words of the present statute, modified only so far as may be necessary to adapt them to the scheme of the committee in consolidating these courts, simply preserve in existence the powers of the judges, their jurisdiction, the control by them, respectively, of the business of the court, just as they now are under the existing law.

I submit, Mr. Speaker, that there has not been shown in anything that has been stated here any reason for changing that very convenient and efficient method. In the action taken by the Committee on the Revision of the Laws in this respect they seem to have taken a very hard and difficult way of doing a very easy thing. I said the other day that under the present system if a receivership affecting a railroad or real estate located in several districts is applied for, the circuit judge being a judge of the circuit court held in each district in his circuit, can make an order, practically extending through all the district, and there is no possibility of conflict between judges. But under this bill as it stands the district judge, having jurisdiction only in one district and only able to sit in the district court for that district, can make an order that simply relates to the territory or to the part of that railroad or real estate within that jurisdiction, and you may have a dozen receiverships, would be very likely to have two or three conflicting receiverships, in the several districts in that circuit.

To that suggestion a reply was made by the gentleman from Pennsylvania [Mr. MOON], that by an amendment, section 54a, there has been provided a remedy for that state of affairs. Now, that remedy, as gentlemen will see by referring to that amendment, is that an application may be made to a district judge for a receivership, and the order made by that district judge shall obtain in the other districts in which the territory lies, as well as in his own district, provided it is approved within 30 days by the circuit court of appeals or a judge thereof, and if it is not approved, then it becomes void. In toto? No. In a district other than that of the judge who ordered the receivership? No. Void outside of the State in which the judge's district is situated. So that under this roundabout and indirect way of providing for that contingency, which the committee recognized must be provided for, you must have, perhaps, a circuit court of appeals taking part in the original jurisdiction in that case, and then after that circuit court may have practically reversed the district judge, that amendment still, notwithstanding that practical reversal, proposes to keep in force in part of the circuit the receivership which has thus been descredited by the circuit court of appeals.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. HUBBARD of West Virginia. Mr. Speaker, I ask unanimous consent to continue for five minutes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. PARSONS. Will the gentleman permit a question?

Mr. HUBBARD of West Virginia. Certainly.

Mr. PARSONS. Will not the amendment that I offer do away with the necessity of section 54a?

Mr. HUBBARD of West Virginia. I think it will not wholly do so, but I think the substitute I offer will do it, because it restores the practice with which we are all familiar and under which everybody recognizes that the difficulty will be avoided, and in three lines there will have been accomplished that which the committee by section 54a has taken practically two pages of this bill to remedy, with the result that I have stated, as to which result I am sure the gentleman from New York [Mr. PARSONS] can not differ with me.

Mr. PARSONS. Does not the gentleman consider it advisable that my amendment should be adopted as well as his?

Mr. HUBBARD of West Virginia. I have stated that I see no objection—in fact, that I am in favor of the amendment offered by the gentleman from New York—and I may say in that connection, Mr. Speaker, that if this substitute meets with the favor of the House, I shall ask unanimous consent to have it transferred to the end of the section, where perhaps it more logically belongs, to be numbered section 22, taking the place of a section which has been omitted, I believe.

Now, Mr. Speaker, I apprehend that if the method of legislation which is proposed here shall obtain, besides what I have said as to the jurisdiction of the circuit court of appeals, there is this to be said: This bill proposes that whenever there is need for a circuit judge to act upon the bench, he must be designated for that purpose by the senior circuit judge. You have perhaps got to go to the other end of a circuit 1,000 miles long to find a senior circuit judge for the purpose, possibly, of designating himself, possibly of designating a junior circuit judge, who may be present in the place where it is desired that he sit.

Mr. Speaker, I apprehend that if the provisions of this revision which relate to this matter are enacted they will be rather calculated to put the judicial business of this country alongside of its postal business, in that sort of a fix which was so sententiously described the other day by the gentleman from Mississippi. It is for that reason, because it simply reenacts the law as it now is, with which we are all familiar and as to which there is no complaint, that I think this substitute should be adopted. I have no objection that it should be added to the amendment of the gentleman from New York.

Mr. PARKER. Will the gentleman permit a question?

Mr. HUBBARD of West Virginia. Yes.

Mr. PARKER. Is it not possible now for all three judges, if there are three in a circuit, circuit judges and the circuit justice, to sit, all of them, on the circuit bench?

Mr. HUBBARD of West Virginia. It is possible.

Mr. PARKER. As I understand the provision the gentleman has at the end of his substitute where the opinion of the circuit judge and district judges differs, when that relates to appeals from the district to the circuit court, it is intended to apply only to that section.

Mr. HUBBARD of West Virginia. No. Under existing law it is the section which relates to original jurisdiction.

Mr. PARSONS. If the gentleman will permit, that is section 614, which is the section dealing with appeals from the district court to the circuit court.

Mr. HUBBARD of West Virginia. But does the gentleman mean to say there is no provision now by which two justices may sit in the exercise of original jurisdiction?

Mr. PARSONS. Oh, yes; but what I am pointing out is that the language which says that the opinion of the circuit judge shall govern is only to be found in the section which is dealing with appeals from the district court to the circuit court judge.

Mr. HUBBARD of West Virginia. That may be, but the gentleman will concede that it is just as desirable and, in fact, just as necessary that if the two judges sit in the exercise of original jurisdiction the opinion of one of them must prevail.

Mr. PARKER. But if there were three?

Mr. HUBBARD of West Virginia. I was about to say if the House shall adopt the amendment proposed by the gentleman from New Jersey, I propose to offer a changed substitute which will provide for that condition and provides that where a circuit justice judge sits he shall preside. If he is not there, and the circuit judge sits with the district judge, he shall preside, and the opinion or judgment of the court shall be in conformity with the opinion of the presiding judge.

Mr. PARKER. Mr. Speaker, will the gentleman permit a further question?

Mr. HUBBARD of West Virginia. Certainly.

Mr. PARKER. Is not it of more importance that where there is a court of three, four, or even five judges, or six judges, as there could be in some circuits where there are three or four district judges——

The SPEAKER pro tempore. The time of the gentleman from West Virginia has expired.

Mr. PARKER. Mr. Speaker, I ask unanimous consent that the gentleman may proceed for five minutes more.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? [After a pause.] The Chair hears none.

Mr. PARKER. I was proceeding to say, Mr. Speaker, is not it of more importance that judges should be called upon the bench, and they should vote according to their majority, as they do in all the other courts where the procedure is nothing more than a chairman of a committee, such as we have in Congress? Is not it dangerous to try to provide for every case, because will not the case run between one district judge, one circuit judge, one circuit justice, or two or three district judges. You can not provide for all cases.

Mr. HUBBARD of West Virginia. But, Mr. Speaker, if there be more than two judges upon the bench, the opinion of the majority would prevail, as a matter of course. The case to be provided for here is where only two judges sit. If they differ in opinion, you must have some opinion which shall prevail for the time, else your case will have been mistried and the time wasted.

Mr. PARKER. But you can take an appeal.

Mr. HUBBARD of West Virginia. But you must have some judgment to appeal from. From which judge, or from whose judgment, do you take an appeal?

Mr. KEIFER. Will the gentleman yield?

Mr. HUBBARD of West Virginia. Certainly.

Mr. KEIFER. In the case of two judges and one a circuit judge, the practice now is to certify a case upon a division of opinion, is it not?

Mr. HUBBARD of West Virginia. If so, I should think it would be difficult to apply that to a case like the one I am suggesting, where the judges are engaged in the trial of a case in which the record is not complete, in which witnesses are being heard.

Mr. KEIFER. Then the case is not ready.

Mr. HUBBARD of West Virginia. The case is ready. It is on trial at the time the diversity of opinion appears, and, indeed, that diversity may not appear until the judgment is to be entered. The judge who is presumably of higher rank and of greater experience, it seems to me, is the judge whose opinion should govern for the time. The appeal that the gentleman refers to still lies.

Mr. KEIFER. I am not speaking of appeal.

Mr. HUBBARD of West Virginia. The gentleman from New Jersey was.

Mr. KEIFER. That is right. But this is my point: When a district judge is sitting with a circuit judge in the matter, why is his opinion not to be regarded, unless it is in accord with the proceeding?

Mr. HUBBARD of West Virginia. For this reason: I think every lawyer who has had any experience in the trial of cases in the United States court has seen cases tried which involved matters of great popular interest, calculated to arouse popular clamor, enveloped, perhaps, in bitterness of feeling, in which the very fact that two judges were upon the bench put into the litigants confidence in the justice of the tribunal that was to decide upon those interests in which they had so much and such deep feeling that it was calculated to impress the community with an added sense of the dignity of that court, that it added weight to the conclusions of that court, that without reference to that it often satisfied counsel who might have been persistent enough to set up their own judgment and opinion against the opinion of one judge, and yet who, defeated by the judgment of two judges, were satisfied it was of no use to go further with that litigation; and the end there came to that controversy that which otherwise would have been protracted by the succession of appeals that has been suggested.

Mr. KEIFER. Granting all that you have just said to be true, and I think it is possible, what regard would litigants or counsel, or the public, when the public was interested, have for a decision where two judges presided and they differed absolutely, one being a circuit judge and the other a district judge?

Mr. HUBBARD of West Virginia. Then the litigants would be sure that there had been presented, not merely by their counsel but by one of the judges in the conference between the judges, all the arguments that could be suggested in favor of the contention, and would realize that when that case went to the appellate court, as in such a case it doubtless would go, it would go there with all the showing that he was entitled to.

The SPEAKER pro tempore. The time of the gentleman from West Virginia has expired.

Mr. KEIFER. Mr. Speaker, I do not care to take but a moment, as I am not very familiar with this whole question, but I am always troubled when it is undertaken to change a policy in our judicial system, and it seems to me that which has just been suggested by the distinguished gentleman from West Virginia [Mr. HUBBARD] would change a policy that has obtained in this country in the trial of cases where a circuit judge and a district judge may come together for more than 100 years. And, if I understand the question fairly, I think there is no benefit to result from doing that. The public and the litigants, and nobody else, have much respect for the opinion that is delivered by one of two judges, the other dissenting. I think when you come to measure talent or rank, or presume extra ability merely by the title of the judge, the public will have but little confidence in it.

Mr. HUBBARD of West Virginia. Is it not the legislation proposed by this committee that is calculated and intended to change the organization of the courts and their methods as they have prevailed for 100 years, and not the substitute that I proposed?

Mr. KEIFER. Perhaps the substitute is only in line with that proposed. I said before that I was not very familiar with all this question, and it is always a little dangerous to talk about a matter you do not know about. My objection is still good, even if it reaches back to the bill as reported here. My recollection is that there has been no exception to the rule that where two judges, or even a number of judges, sit in the trial of a case or in the hearing of a question upon appeal, if it was on mere matters of law, and there was an equal division of the court—I mean a subordinate court—and there was no decision, the case was certified up for decision, and I understand the rule to be when it happens in the Supreme Court, where a case comes up, and it happens that an even number of judges hears the case and divide evenly, that the judgment of the court below has to be affirmed, because it can not be reversed.

Mr. HUBBARD of West Virginia. Will the gentleman yield?

Mr. MOON of Pennsylvania. Certainly.

Mr. HUBBARD of West Virginia. That prevails where there is a difference of opinion in the circuit court of appeals and the case goes to the Supreme Court. I think the gentleman is misled by a statement made by the gentleman from New York in reference to section 614, which that gentleman has interpreted as applying merely to a case where the district judge is sitting in an appellate capacity. Will the gentleman allow me to read section 614?

Mr. MOON of Pennsylvania. Certainly.

Mr. HUBBARD of West Virginia (reading):

SEC. 614. A district judge sitting in a circuit court shall not give a vote in any case of appeal or error from his own decision, but may assign the reasons for such decision: *Provided*, That such a cause may, by consent of parties, be heard and disposed of by him when holding a circuit court sitting alone. When he holds a circuit court with either of the other judges, the judgment or decree in such cases shall be rendered in conformity with the opinion of the presiding justice or judge.

And such is the practice. Cases are not certified, but the opinion of the judge higher in rank prevails. The last sentence is independent of the first one, and relates to every case where the district court holds a circuit court with another judge.

Mr. MOON of Pennsylvania. Is the gentleman aware of the fact that that is not existing law, and has not been the law since 1891?

Mr. HUBBARD of West Virginia. I am not aware of it.

Mr. MOON of Pennsylvania. That section relates to the course of procedure upon an appeal from a district court to a circuit court. In 1891 the appellate jurisdiction of the circuit court was abolished.

Mr. HUBBARD of West Virginia. This was in existence long before 1891, and therefore could not have been subject to change as to its interpretation.

Mr. KEIFER. It was superseded and repealed, I think, in 1891.

Mr. MOON of Pennsylvania. Mr. Speaker, I understand the pending amendment is the amendment offered by the gentleman from New Jersey [Mr. PARKER] to the amendment offered by the gentleman from New York [Mr. PARSONS], and the gentleman from West Virginia has spoken not in relation to that, but in relation to his own amendment. I ask the Chair to put the amendment of the gentleman from New Jersey, and then I will briefly discuss the amendment offered by the gentleman from West Virginia.

Mr. BRANTLEY. Mr. Speaker, I do not hope to illumine this discussion, but I do desire to record my protest against the revolutionary change in our judicial system made by this codification bill. I have the greatest respect ordinarily for the judgment of the distinguished chairman and his associates who propose in this codification bill, not only to take away all original jurisdiction from the circuit courts, but in terms to abolish these courts; but in this instance I do not agree with him or them.

The several pending amendments—the one offered by the gentleman from New York [Mr. PARSONS]; the proposed amendment thereto offered by the gentleman from New Jersey [Mr. PARKER]; the amendment of the gentleman from West Virginia [Mr. HUBBARD]; the amendment proposed by the gentleman from Pennsylvania [Mr. MOON] and already adopted adding section 54a—are all designed to meet some of the difficulties, troubles, and confusion that must of necessity result if this codification bill is adopted.

Whether or not these amendments, or any of them, can reach the end of giving us the same perfect system we now have, I am not sure, but I gravely doubt it. I believe, however, that the effect of these amendments if adopted will be to save the necessity of the appointment of a large number of additional

United States district judges who would necessarily have to be appointed if this codification bill goes through in unamended form. I believe these amendments would to some extent relieve the bad situation that this codification bill will produce if adopted.

It occurs to me in this connection to say that if these amendments will restore us to the system we now have, with all its flexibility, why have made the change at all? If in the end we are going to get back to the place from whence we started, why have made the start? Why enact a lot of new statutes that must be construed and understood if in the end no change in our system has resulted?

Mr. Speaker, I am opposed to this codification bill because it abolishes the circuit courts. I do not believe we can improve upon our judicial system as it now exists—a system that has been tested and proven since the foundation of the Government. The subject under discussion is too important—is too far-reaching—to be dealt with through the limited investigation and discussion that can be given to it, legislating in this way. The statement is made that the proposition to abolish the circuit courts has the indorsement of the American Bar Association, and yet it is a fact that at the last meeting of the American Bar Association, held in Chattanooga last September, a resolution was adopted asking Congress not to enact this codification into law at this session because it abolishes the circuit courts. The association thought, and so declared in their resolution, that the matter is of such serious importance that final action should be deferred until the legal profession has thoroughly investigated and considered it.

The statement is made that heretofore the American Bar Association has indorsed this identical proposition. I am not a member of this association, and I have no personal information upon the subject; and yet I caused to be printed in the RECORD during the month of December a memorial or petition from a committee of the American Bar Association, composed of one lawyer from each circuit of the United States, whose names appear thereto, in which memorial the statement is made that the association, as an association, has never indorsed this change and that the records of the association will not support the statement that they had done so.

What the truth of this matter may be I do not know, but it does seem to me that before we proceed to enact into law this revolutionary change in our judicial system we ought, at least, to give to the American bar an opportunity to consider what the effects and the results of the change may be.

It has also been suggested upon the floor of the House as a reason for making this change that back in 1890, when the Congress enacted the law creating the circuit courts of appeal, this law as it passed the House included a provision abolishing the circuit courts, substantially in the form now proposed, and that therefore the House is upon record as having indorsed the proposition.

For my information, Mr. Speaker, to learn the reasons given at that time for such a change, and also to acquaint myself with the arguments made against the change, I took the trouble to go back and look at the CONGRESSIONAL RECORDS of that period. I discovered a rather interesting fact, one that is possibly of no value so far as the merits of the proposition are concerned, but a fact that is of value as showing that the action of the House at that time furnishes no precedent for the proposed action at this time. That fact is that a majority of the House did not vote to abolish the circuit courts.

[The time of Mr. BRANTLEY having expired, by unanimous consent, on the request of Mr. BUTLER, his time was extended for 10 minutes.]

Mr. Speaker, I discovered that when the bill creating the circuit courts of appeal was up before the House it included a provision to abolish the circuit courts. I found, however, that that bill was considered in the House under a special rule from the Committee on Rules, reported from that committee by the distinguished gentleman who is now the Speaker of this House, which rule limited debate until 5 o'clock of the day on which the rule was offered.

I discovered that there was intense opposition to the adoption of the rule because it did not afford the House an opportunity to discuss the questions involved, so that there were numerous roll calls upon the adoption of the rule, and when the rule was finally adopted the gentleman in charge of the bill in his opening statement to the House announced that 1 hour and 5 minutes of time only was available in which to discuss this bill; that is to say, one hour and five minutes was the sum total of time given by the House to the discussion of the bill. The statement was made upon the floor the other day that upon the passage of the bill there were only 13 votes recorded against it, and this was cited as an evidence of the unanimity of the House on the proposition at that time. There were but 13 votes recorded against the bill, but that is not the whole story. The RECORD of that time shows that the bill received 131 votes, with 13 votes cast against it, but that 183 Members did not vote at all. The RECORD further shows that the point was made that no quorum had voted, and that thereupon the then Speaker proceeded to count as present 30 gentlemen who had not voted, and announced that a quorum was present, and that the bill was passed.

I found, Mr. Speaker, that when the bill reached the Senate it was discussed at length, and that the provision abolishing the circuit courts was stricken from it, and that when the bill came back to the House from the conference committee with this provision stricken, a motion was made for the yeas and nays in opposition to the adoption of the conference report, but a sufficient number of gentlemen would not rise in the House to get a call of the yeas and nays on the adoption of the conference report. I take it, upon the whole, that not much value can be attached to the action of the House at that time, even though a different result had been reached, because, after all, the great question under discussion at that time was the creation of the circuit courts of appeals, and not the destruction of the circuit courts.

Mr. MOON of Pennsylvania. Would it embarrass the gentleman if I asked him a question? I do not want to take his time. His time will be extended.

Mr. BRANTLEY. Not at all. I will be glad to yield to the gentleman.

Mr. MOON of Pennsylvania. Is the gentleman also aware of the fact that after the Senate had refused to adopt the legislation of the House, in a few years thereafter the American Bar Association itself introduced, or prepared, a bill which was introduced by Senator Hoar, at whose objection the Senate refused to adopt the provisions abolishing the court? I ask the gentleman if he is aware of that fact, and that the bill prepared by the American Bar Association accomplishing just this purpose was introduced by Senator Hoar and referred to the then Commission for the Revision of the Laws, practically with instructions to make that change. Is the gentleman aware of that fact?

Mr. BRANTLEY. Mr. Speaker, I am not.

Mr. MOON of Pennsylvania. I have the RECORD.

Mr. BRANTLEY. I have just stated, and it appears in the RECORD printed last December, that a committee of the American Bar Association in their printed statement, over their own signatures, challenged the statement of the gentleman from Pennsylvania. They stated that the records of the American Bar Association will not sustain the statement that that association, as an association, has ever indorsed this proposition. I distinctly stated that I did not know the facts, but I called attention to the issue made thereon. One of the objections that I have to making this proposed change in our judicial system is one of the objections that was urged in the Senate at the time this change was proposed in 1890 and 1891. My distinguished friend from Pennsylvania is mistaken if he concludes from his reading of the RECORD of that time that only one Senator was opposed to this proposition. Mr. Speaker, the founders of this Government were wise, in my judgment, when they so framed our judicial system that the great judges of the Supreme Court and all the great appellate judges of the country would not be segregated and set apart and removed from all contact with the people.

It was the idea of the founders of this Government that these judges, who have the last say on the lives and fortunes and destiny of the people and the Republic, should not be isolated from the people and unknown to them. The idea of the founders was that it was good for the judges and the people, good for the Government, for these judges to come in contact with the bar and with the people, and so it was provided that the Supreme Court judges should sit in the circuit courts and be a part of these courts. [Applause.] That system has continued from then until now. Here is a proposition that says in terms that the Supreme Court judges shall not sit in nisi prius courts. It is bad enough for pressure of business to keep these judges away from the circuits, but it is infinitely worse to say, as matter of law, that they must keep away. Some of the brightest pages in the judicial history of this country have been written by Supreme Court judges, sitting in the circuit courts. When the pending proposition was before the Senate in 1890 a distinguished Senator, other than Senator Hoar, to wit, Senator Evarts, of New York, said he thought it a great misfortune—

that judges in banc are also not brought in contact with the profession and the suitors and the people in the courts of first instance as frequently as possible.

He also said that the circuit judges, when the work of the appellate court was completed, under the Senate bill—

would be left to take the very important part that they now take, and can not be spared, in my judgment, in the courts of first instance in equity cases and in matters that belong to first hearings of all important matters.

I do not desire to see a severance between these appellate judges, which the scheme of the House operates between the judges of that court and the jurisdiction in the first instance of the litigation that the circuit judges now discharge.

Another great Senator, Senator John T. Morgan, of Alabama, said in his speech in opposition to the House proposal:

Now, another point, and I think it is an important consideration. I want the circuit judges to do some nisi prius work. I have conferred oftentimes with the venerable judges of the Supreme Court about that. I have asked some of them about it. Indeed, I have made it a matter of serious inquiry to know what their opinions were about it, and why it was that they had not long ago recommended in the midst of their immense labors that they should be relieved of their circuit riding. They said, "It is a delight to us to go out and try causes at nisi prius. More than that, it improves us; it informs us of what the people are, what they think, and what they feel." They are not strangers in the land, and they are not strangers on the judgment seat when they go out among the people and find out what the people think and what they are doing. So I want the circuit judges to participate in the nisi prius work.

The oldest circuit judge to-day in commission is Circuit Judge Don A. Pardee, of the fifth circuit. In a letter written by him on March 26, 1910, he stated that he had then been a circuit judge for 29 years; that he was then 73 years of age and must inevitably soon vacate his office, so that he had no personal interest in opposing the proposition contained in this bill. Speaking from his long experience on the immediate point I am making he said:

In my opinion the legislation is ill advised. From the foundation of the Government until now the idea has prevailed that appellate judges should not be segregated and entirely cut off from the bar and people, but should from time to time sit and preside in the courts of original jurisdiction, giving these courts the benefit of their experience and bringing the high judges face to face with the great mass of people and the many active lawyers (who otherwise might never see them) to the advantage of all. Under this system Mr. Chief Justice can sit in the circuit courts of the fourth circuit and Mr. Justice White in the fifth circuit, and I have many times found it necessary to sit with the district judge in my circuit.

Gentlemen who talk about the circuit court judge not holding the terms of his court overlook the important fact that there is a volume of chambers matters and equity matters that he is constantly engaged upon. The amount of circuit court work that he does is not to be measured by the number of days that he actually holds court during term time.

To my mind, the chief argument that is urged for abolishing the circuit courts is the conclusive argument against abolishing them.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. PARSONS. Mr. Speaker, I ask unanimous consent that the gentleman have five minutes more.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. BRANTLEY. Mr. Speaker, the thing that I object to mostly, and that the lawyers in my section of country protest against with most earnestness, is the fact that this codification not only abolishes the circuit courts, but abolishes and destroys the power of the circuit judge. Lawyers in my section of the country believe that one of the most beneficent influences, one of the most potent influences for good that now exists under our system of laws is the power of the circuit judge. He may not always hold the circuit court, but his power is always present to restrain the granting of improvident orders. It is his court, and he can step in at any time and take charge of it and the business therein. This bill destroys this power, and while it lets him go into the district court it sends him there as a district judge, with the power only of a district judge. His great supervisory power is destroyed, and his initial or original power in the administration of large properties covering more than one State is left by this bill, in an incomplete and imperfect state, in the district judge. This bill forces litigants, who want to complain sometimes of the orders of the district judges, to go through a tedious and costly appeal, whereas under the present system the circuit judge, by reason of his supervisory power over his own court, can grant the desired relief upon mere presentation of the matter to him. Gentlemen now complain that he has this power, and yet the founders of the Republic conferred it, and it has stood the test of more than a century of experience. To destroy the power of the circuit judge would be, in the opinion of a distinguished lawyer who recently wrote me, nothing short of a calamity. I concur in his view.

The amendment proposed by the gentleman from Pennsylvania—54a he calls it—authorizes the district judge to appoint a receiver where the property involved covers more than one State, the same as a circuit judge may now do, subject, however, to confirmation within 30 days by the circuit court of appeals. It seems to me that the gentleman loses sight of an important fact. I take it that as a rule, where great properties are subject to and ready for a receivership, both sides seek the protecting arm of the court. There is rarely a contest over the appointment of the receiver.

The place and the time where the power of the circuit judge is valuable and necessary is not in the mere appointment of the receiver, but it is in the granting of the administrative orders that follow the appointment of the receiver—it is the power that avoids clashing jurisdictions and gives one uniform administration; and this is the power that is taken away. A stock argument advanced for this bill is that we have too many clerks. It seems to me that a little law, a few lines in length, providing that where the district and circuit courts are held on the same day by the same judge, with the same clerk and other officers, that one per diem only for the officers of the court, the jurors, and witnesses shall be paid would be amply sufficient to reach that evil. In order to save a few dollars to the Government that could easily be saved otherwise it is proposed to revolutionize a system that has been in existence since 1789.

I make the prediction, Mr. Speaker, and the discussion now on the floor of this House, together with the pending and previous amendments, warrants the prediction, that if we make the change now proposed it will require another long line of judicial decisions to interpret the new law so that litigants and lawyers will know what the law is, and will know what the procedure is. Until the new law is judicially ascertained and known we will have chaos and confusion, such as has not existed since the early days. At the present time we have a system thoroughly established and understood. It works smoothly. The lawyers and courts understand it and there is neither friction nor delay. The distinguished gentleman who urges this proposition has stated that the present system is cumbersome and unwieldy, and yet as against his opinion, valuable as it is, a committee of the American Bar Association in 1909 announced that "the Federal circuit courts and circuit courts of appeals are a model of flexible judicial organization."

Mr. Speaker, the pending codification bill consists of 286 sections. In the neighborhood of 80 of these sections existing law is redrafted without any change. About 150 sections state existing law, with only such rearrangement and verbal changes as are necessary and proper in a codification. The remaining sections change existing law, and all these changes in the main are made necessary, by reason of the proposed abolishment of the circuit courts. As I read the bill I find it practically impossible to offer an amendment that will restore our existing judicial system. The objection that I urge to the bill can not be reached by an amendment. The only way that it can be reached is by recommitting the bill to the committee, with instructions to strike out of it all those portions whereby the existing circuit courts are abolished.

If the bill ever reaches that stage where such a motion would be in order, it should, in my judgment, be made, and the House should adopt it. The country has waited a long time for this codification, but the country can wait yet a while longer rather than obtain it accompanied by the extinction of the circuit courts and the destruction of the power of the circuit judge. The codification commission and the Committee on the Revision of the Laws have done a good work in this codification, and one for which they are entitled to the thanks of the bar and the people of the country. It is unfortunate that they have done more than was expected of them, and more than the country, so far as I am advised, desired should be done.

I am opposed, not only to the pending revolutionary change in our judicial system, but I am equally opposed to the revolutionary manner in which the change is sought to be effected. I do not charge the commission or the committee with exceeding the power conferred upon them, but, granting that they had the power to change substantive law in the manner proposed, I submit that two mistakes have been made. The first mistake was in conferring such power upon the commission. The second mistake was made by the commission in exercising such power although conferred. I believe that a codification commission should in its work be limited to codification. Such a commission should have no power to change substantive law, and when their report is submitted, I earnestly insist that it should be considered in the House under a rule that would prohibit any amendments in the House changing substantive law. The commission, if it should find that in its opinion certain changes in substantive law should be made, should submit such proposed changes in separate bills, which bills should go to their appropriate committees. In no other way, so far as I can see, can we preserve that system of safeguards in the mat-

ter of legislation that has been in force so long, not only in this body, but in all other legislative bodies.

Mr. Speaker, on each succeeding calendar Wednesday during this session, we have witnessed the spectacle of our entire body of law relating to the judiciary considered on the floor of this House, where each and every section is open to amendment, modification, or repeal, and all without investigation or consideration by any committee and without real investigation or consideration by the House itself. Our judiciary laws are not the work of a day. They are the evolution of more than a century of experience. It is unwise and dangerous to have these laws subjected to change and repeal without that careful and painstaking investigation and consideration that is always essential to wise legislation. The entire trouble with which we are now confronted grows out of the fact that the codfication commission undertook the change of substantive law. If they can change substantive law, the House is certainly entitled to do so. If the commission had not changed substantive law, it would have been a comparatively easy matter to have prevailed upon the House not to do so, except in a regular and orderly manner.

Mr. Speaker, I thank the House for its attention. [Applause.]

Mr. HUBBARD of West Virginia. Will the gentleman allow me to ask him a question, as one who sympathizes very much with the views he has just expressed? I desire to ask him whether, in view of the possibility of the enactment of this legislation, it is not the part of wisdom to adopt the amendments that are now proposed. If the bill should fail on final vote, no harm is done; but if it should pass, will not these amendments, in his judgment, go far toward retaining the present powers of the circuit judge?

Mr. BRANTLEY. I take pleasure, Mr. Speaker, in stating that I expect to vote for each one of these amendments. I propose to improve, so far as I can do so, the bill as it comes from the committee. I think each one and all of these amendments tend to better the situation that will result if this codification bill goes through unamended. [Applause.]

Mr. HUBBARD of West Virginia. Mr. Speaker, I also ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. MOON of Pennsylvania. Mr. Speaker, a few words in reply to the gentleman from Georgia. The gentleman has spoken about the Federal judicial system of the United States as a great and time-honored institution that ought not to be lightly changed or amended. He has paid a great tribute to it as a perfect historical judicial system. I want to say to the gentleman that I yield to no man in my admiration for the principles upon which our Federal system of judicature is based; that my reading and my study of that system show me that from the beginning its practical operation, its administrative methods, were only tentative; that in its earlier stage and practical application it had to be changed from time to time, and all these changes that were made by the various acts of Congress were made to perfect the administrative and judicial methods in the distribution of business as practical weaknesses developed in actual operation in the field.

The act of 1789, that created our judicial system, created these two courts—the district and the circuit court—the Supreme Court having been created by the Constitution; but, Mr. Speaker, it will be remembered that at that time the Supreme Court of the United States, which was almost wholly an appellate court and whose chief function was its appellate power, had no appellate work that it could possibly perform. No cases had been tried, no records had been made, no errors had been committed, and therefore that great court had no functions to discharge whatever, and the original circuit court was created with original jurisdiction and the Supreme Justices were made the judges of these courts.

I call the attention of the House to the fact that for 80 years, from 1789 down to 1869, there did not exist such a thing as a circuit judge. The circuit court was created as a nisi prius court and was made to consist of two Supreme Court justices and a district judge, and these unemployed Supreme Court justices went out upon the respective circuits to try cases and create records for which and upon which the Supreme Court of the United States was to sit on appeal. That act, the act of 1879, required two Supreme Court Justices to sit in the circuit court; and I called attention to the fact in the speech that I delivered on the floor of the House upon the introduction of this bill that these justices were obliged to travel the entire length of this country in that service, and that a position on that great bench, which is now regarded as the greatest judicial honor in the world, was not sought by the great lawyers of the country. I called attention to the fact that George Washington in the brief period of his administration appointed three Chief Justices of the Supreme Court, and that many of the great lawyers of the land who were appointed refused to serve, largely because of the fact that that court had no dignity and no power and was in fact only a nisi prius court, and I published in that an interesting letter from John Jay, who, when the position of Chief Justice was tendered to him a second time, after the resignation of Ellsworth, declined to serve and predicted that the court never could have any dignity and never could command the respect of the United States and never could fulfill the purposes for which it was created.

Now, Mr. Speaker, I do not desire to pursue that line of thought any further, but to say that the first circuit court was created and its judges were assigned only as a tentative proposition and that as early as 1783 Congress was obliged to amend that judicial act by requiring that thereafter that only one circuit court justice should be required to sit in a circuit, because experience had demonstrated that the changing requirements of the judicial business of these courts no longer required the two judges. And so from year to year as the weaknesses and imperfections of the legislation creating the original judicial system was developed, Congress altered by law various provisions of the original act. In 1869 when the appellate work of the Supreme Court had so greatly increased as to require all of the time of the Supreme justices in the work of the Supreme Court in Washington, the circuit court, as created in 1789, practically ceased to exist; the glory of that court was extinguished—it had fulfilled its mission.

That act created for the first time a circuit judge; the act of 1869 declared that a Supreme Court Justice need to visit the circuit court only once in two years; it further provided that that court might be held by a district judge sitting alone instead of two Supreme Court Justices sitting together.

Now, therefore, the entire original scheme, devised by Oliver Ellsworth, embodied in the judicial act of 1789, was practically rescinded, because the changed conditions required it. The necessity for nisi prius work by the Supreme Court Justices had passed away, and the tentative character of the original scheme was again demonstrated, and when in 1891 there arose the necessity to create a circuit court of appeals to relieve the calendar of the Supreme Court of the United States the House did, with only 13 votes against it, as I stated, devise the scheme of creating this intermediate court as a separate and distinct appellate tribunal and did abolish all the original jurisdiction of the circuit court and conferred it upon the district court. They believed then, as I believe now, that there was no longer any excuse for the existence of a circuit court. The Senate took a different view and amended the bill in such a way as to take away all of the appellate jurisdiction of the circuit court, but left that court with an original jurisdiction in many instances, in most instances concurrent with the district court, and in some particular instances, comparatively few, with an original jurisdiction that was exclusive.

Now, that act of 1891 as amended by the Senate, I repeat, took away all of the appellate jurisdiction of the circuit court, which at that time was really the only excuse left for its existence. They did take away all of that appellate jurisdiction. They created the new appellate court, the circuit court of appeals, and left these two courts, the district and the circuit courts, in the same field, with original jurisdiction practically concurrent in a great majority of the cases.

[The time of Mr. MOON of Pennsylvania having expired, by unanimous consent he was granted 10 minutes more.]

It is important, Mr. Speaker, that the House understand the exact attitude of the lawyers, the judges, and the American Bar Association, and the Congress of the United States upon this question. I say that in 1891 this House felt that the time had come to take away all of the original jurisdiction of the circuit courts and confer it upon the district courts and make the circuit court judges appellate judges wholly. I have already said how that was amended in the Senate and came back here. It will be remembered that the act was signed on March 3, 1891, which was the day before the adjournment of Congress. When it came back from the conference there were declarations made upon the floor of the House by eminent lawyers that they would not accept the Senate amendment—would not approve the mutilation of the House bill—except that to refuse at that late hour would defeat the possibility of any legislation at that session. Remember, the object of that legislation was to relieve the dockets of the Supreme Court of the United States.

They were then four years behind, and the House felt that it was absolutely essential to relieve that situation, and I repeat

that eminent lawyers did make the declaration upon the floor of the House that but for that fact, that they must accept that bill or none, they would vote against the conference report, and did say that they accepted it at that time with the hope and expectation that some later Congress would correct the error that they were then submitting to.

Observe that was in 1891. In 1899 the American Bar Association, which had taken a great interest in this legislation—and I want to say to the gentleman from Georgia [Mr. BRANTLEY] it was the pioneer in this subject of the consolidation of the courts—the American Bar Association prepared a bill, a copy of which I have before me, which in terms does absolutely what this bill before the House to-day does. It provides—

That all the powers, duties, and jurisdiction heretofore conferred or imposed upon or exercised by circuit courts of the United States be hereby conferred and imposed upon and shall hereafter be exercised by the district courts of the United States in their respective districts.

Mr. Hoar introduced that bill in the Senate in 1899. I did say in my address upon the floor of this House that Mr. Hoar led the opposition to the adoption of the act of 1891 that went over from the House making this provision. I did say then that Mr. Hoar was largely, and I may have said chiefly, instrumental in influencing the Senate in its refusal to accept that act. I did not say then, I did not think then, that he was the only man that voiced a sentiment against it, the only man who spoke against it, or the only man who voted against it. I spoke of him then and I speak of him now as the spokesman in opposition to that measure.

In 1899 the American Bar Association prepared their bill and submitted it to Mr. Hoar, who submitted it to the Senate, and as a report upon that bill he submitted a letter from Mr. Wetmore, then chairman of the committee on Federal legislation of the American Bar Association. He submitted this bill to the Senate accompanied by this letter as a report, and he made no other report upon it. I have that letter from the chairman of the committee on Federal legislation of the American Bar Association, and I shall insert it here in order that the House may know what that association thought of this legislation in 1899.

The bill introduced by Mr. Hoar is as follows:

[Fifty-fifth Congress, third session.]

A bill (S. 5584) in relation to the courts of the United States.

Be it enacted, etc., That all the powers, duties, and jurisdiction heretofore conferred or imposed upon or exercised by the several circuit courts of the United States are hereby conferred and imposed upon, and shall be hereafter exercised by, the district courts of the United States within their respective districts; and all the powers, duties, and jurisdiction heretofore conferred or imposed upon or exercised by the several judges of the circuit courts of the United States are hereby conferred and imposed upon, and shall be hereafter exercised by, the judges of the district courts of the United States within their respective districts. Such courts shall be, and be termed in all papers, actions, and proceedings, district courts of the United States. All suits and processes, civil and criminal, originally returnable to the United States circuit court in each district and pending and undetermined therein at the time that this act takes effect shall be transferred to the respective district courts of such districts and entered upon the dockets thereof, and such district courts shall have jurisdiction thereof.

SEC. 2. That all procedings of a supervisory nature under any statute of the United States now pending in any circuit court in any district, including those referred to in chapter 407 of the laws of 1890, section 15; chapter 370 of the laws of 1898, section 4; and sections 1493 to 1496 of the Revised Statutes of the United States shall be transferred to and decided by the district court of the district in which such proceedings are now pending. Appeals and writs of error shall hereafter be taken and prosecuted from the orders, judgments, and decrees of the United States district courts to the Supreme Court of the United States, or to the circuit court of appeals for the circuit in which any district is situated, in the same manner and under the same regulations as appeals and writs of error are taken and prosecuted under existing laws from the circuit courts of the United States to the Supreme Court of the United States and to the circuit courts of appeals, excepting appeals in prize cases, which shall be governed by the law now existing as to such appeals.

SEC. 3. That all existing provisions of law relating to the jurisdiction, powers, and duties of the Chief Justice and the associate justices of the United States in respect of the circuit courts of the United States as the said courts have existed prior to the passage of this act shall relate and apply to the United States district courts.

SEC. 4. That the office of clerk of the United States circuit court in the several districts is hereby abolished, and the duties of such clerks shall in each district be performed by the clerks of the district courts. The records of the circuit court for each district shall be transferred to the custody of the clerk of the district court for that district. Any person now holding both the office of clerk of the circuit court and clerk of the district court in any district or in any division of any district shall retain the office of clerk of the district court, subject to the provisions of existing laws. In any district or division of a district in which the offices of clerk of the circuit court and clerk of the district court are now held by different persons, the office of clerk of the district court shall be vacated, and a clerk of the district court shall be appointed by the district judge of such district, subject to the approval of a majority of the judges of the United States circuit court of appeals for the circuit in which such district is situated.

SEC. 5. That nothing herein contained shall be construed to affect any provision of law relating to pensions allowed to judges of Federal courts, howsoever denominated. Service of a judge in any Federal court shall be included in the period of service which under existing law shall entitle him to a pension.

SEC. 6. That whenever from the accumulation or urgency of business in any district court as herein constituted the public interests require the designation and appointment hereinafter provided, the presiding judge of the United Staes circuit court of appeals in each circuit, or in case of his disability or absence the judge of said court next senior in commission, may designate and appoint the judge of any other district in the same circuit to have and exercise in the district first named the same powers that are vested in the judge thereof. In case of the legal disqualification, disability, or absence from the district of the district judge thereof, in which district any action, suit, or proceeding is pending, any district judge of the same circuit shall have power and authority to make any order necessary or proper in such action, suit, or proceedings.

SEC. 7. That the United States circuit courts of appeals in each circuit as now defined shall consist of three judges, of whom two shall constitute a quorum, to be hereafter denominated circuit judges of appeals, which three judges shall include the present circuit judges in each circuit; and in circuits where the number of circuit judges is now less than three an additional circuit judge of appeals shall be appointed by the President, by and with the advice and consent of the Senate. Until such appointment two circuit judges of appeals may hold such courts in circuits where the appointment of an additional judge is hereby authorized. Only circuit judges of appeals shall sit in said circuit courts of appeals.

SEC. 8. That any Federal judge who shall hold court in any place other than that of his residence shall be entitled to the same compensation for travel and attendance as provided by section 8 of an act entitled "An act to establish circuit courts of appeals and to define and regulate in certain cases the jurisdiction of the courts of the United States, and for other purposes," approved March 3, 1891.

SEC. 9. That a writ of certiorari shall issue from the United States Supreme Court, as of right, to review any final judgment or decree of any United States circuit court of appeals, when it shall appear on petition, filed within six months after such judgment or decree shall be entered, that there is a conflict between the decision of the United States circuit court of appeals in that case and a decision of the United States Supreme Court or of any other United States circuit court of appeals on any question of law involved in the decision of such case. An appeal or writ of error in respect of any judgment or decree of the circuit court of appeals to the Supreme Court shall be had in any case by leave of said circuit court of appeals, or in any case in which the final judgment or decree of a United States district court shall have been reversed without the concurrence of all the circuit judges of appeals before whom the hearing is had in the circuit court of appeals, but the appeal or writ of error shall be taken or sued out within 30 days from the entry of such judgment or decree.

SEC. 10. That the United States circuit court of appeals in each circuit shall have appellate jurisdiction to hear and determine an appeal from interlocutory orders and decrees, appointing or refusing to appoint or discharging or refusing to discharge, receivers, or granting or refusing to grant injunctions, notwithstanding an appeal in such cases might, upon final decree, under the statutes regulating the same, go directly to the Supreme Court of the United States. Such appeals must be taken within 30 days after the entry of the interlocutory order or decree; and in case of appeal to the circuit court of appeals from any order or decree in equity of the district court, the circuit court of appeals, or any judge thereof, shall have power by order at any time to stay all proceedings under such order or decree pending the appeal, and to make such orders as to injunctions, receivers, or otherwise, as may be necessary or proper to protect the rights of persons interested, pending the appeal.

SEC. 11. That any United States circuit judge of appeals shall, when specially assigned in the manner hereinbefore provided for the assignment of district judges, and not otherwise, hold court alone or in conjunction with a district judge in any district in the circuit, but no such judge shall sit in the United States circuit court of appeals in review of his own rulings.

SEC. 12. That the Chief Justice of the Supreme Court of the United States, or in case of his absence from the country or disability, the associate justice senior in commission, shall have power to assign any circuit judge of appeals to sit in any circuit court of appeals in the United States, or in the district court of any circuit other than that of which he is a circuit judge of appeals. It shall be the duty of the Chief Justice, or associate justice, as above provided, to make such assignments from time to time as will secure at the sittings of each of the several circuit courts of appeals as constantly as practicable the presence of at least one judge from another circuit.

SEC. 13. That this act shall take effect and be in force from and after three months from the passage thereof.

The letter of Mr. Wetmore, which Mr. Hoar filed as a report upon the bill, is as follows:

[Senate Document No. 142, Fifty-fifth Congress, third session.]

NEW YORK CITY, *February 25, 1899.*

DEAR SIR: The American Bar Association, in pursuance of a suggestion received from yourself, appointed a committee to consider the subject of the Federal courts, and the proposed bill, which I inclose, is the result of their labors and has the approval of the association. If it meet with your own approval, will you kindly introduce it in the Senate?

In preparing the bill, the committee by correspondence and personal interviews obtained the views and suggestions of the Federal judges throughout the United States, and also of a large number of those in different parts of the country who, professionally or otherwise, were familiar with the working of the courts and seemed best able to throw light upon the question of what changes were needed. The following is a brief statement of the general scope and object of the bill and the reasons for some of its particular enactments. Our purpose was to make as few changes as possible consistent with the accomplishment of the main purposes of the act.

The main scope and object of the law is (1) to consolidate the district and circuit courts into a single court; (2) to augment the present provisions of law for the assignment of the judges for duty elsewhere than in their own districts so as to facilitate the accomplishment of the judicial business of the courts of first instance, which has become greatly congested; and (3) to enlarge the powers of appeal in some particular cases where such enlargement seems necessary.

The first three sections relate to the consolidation of the courts by transferring the powers, duties, and jurisdiction of the circuit courts to the district courts of the United States. This was deemed the best and safest way of bringing about the result instead of, in terms, abolishing the circuit courts. Practically, of course, it is the same as if the circuit courts ceased to exist.

The second section provides specifically for supervisory proceedings, appeals, and writs of error, in order to adapt them to the single court, and the third section for the same reason makes specific provision in regard to the justices of the Supreme Court as to sitting in the circuits and like matters. The desirability of having but a single court instead of the present circuit and district courts, and thus securing the advantages of simplicity, uniformity, and economy in the exercise of its jurisdiction, is so universally admitted that it is unnecessary to discuss the expediency of this provision of the law.

Section 4 relates to the clerks. The committee have been very desirous of avoiding, if possible, the necessity of legislating any of the clerks out of office, but it seems impossible to avoid this in circuits where there are two or more clerks and different persons hold the office of clerk of the circuit court and district court, respectively. Our proposal is to retain the present clerks where the same person performs the duty of district and circuit court clerk, and in the other cases leave the appointment of the clerk to the court, as provided in the section, and this will leave it possible to appoint the remaining clerk who may not be chosen first deputy. We did not see how it was possible to have two clerks, nor could we recommend that the deputy be paid the same salary that the clerk now receives. If any other way should occur to the Judiciary Committee of dealing with this question, so far as the proposers of the bill are concerned, we have merely suggested what seemed to us, on the whole, the best arrangement, and we shall leave it with the committee without argument to accept or modify it as may be deemed best.

Section 5 was inserted to provide against the possibility that, should the act go into effect, service in the circuit court prior to the taking effect of the act might not be deemed to be included in the period of service entitling the judge to a pension.

Section 6 provides for the assigning of the judges in one district to serve in another when pressure of business may make such assignment desirable. This is one of the provisions relating to the relief of the lower Federal courts in consequence of the large amount of business thrown upon them, and is urgently needed.

Section 7 was framed after much consultation. It relates to the court of appeals and provides that it shall consist of three judges, and by section 10 it is provided that the court of appeals judges may sit at nisi prius when assigned thereto. It is believed that the result of these two provisions, together with the provision of section 11, which provides for the circulation of the judges of the courts of appeals, will result in giving the judges of the courts of appeals sufficient work at nisi prius to keep them in touch with that branch of the judicial duties, while, on the other hand, the courts of appeals will be kept sufficiently distinct from the lower courts, and the tendencies operating to give them a local character will be checked. Under the present law all our circuit courts of appeals tend to become, in some degree, local courts, their decisions naturally taking some of the local hue and character of the part of the country to which their jurisdiction is confined. In the aggregate they exercise a considerable part of the jurisdiction formerly exercised by the Supreme Court of the United States, and it is highly desirable that, in the exercise of this jurisdiction, their decisions should be brought as near as possible to the standard of uniformity that prevails in a single court, and we think that the provisions of this proposed act, above referred to, will aid in bringing about that result.

Section 8 merely provides for the same traveling fees as are now provided by law, and needs no comment.

Section 9 somewhat enlarges the present right of appeal by granting appeals as of right to the Supreme Court where there is a conflict of decision between the courts, or in cases where the judges of the lower court and of the court of appeals, taken together, divide evenly, and, further, by allowing the circuit court of appeals to permit an appeal to the Supreme Court in any case. The usefulness and necessity of the circuit courts of appeals is fully recognized. They serve to relieve the Supreme Court of the pressure of business which would otherwise be overwhelming; but, as already stated, the great desideratum in regard to these courts is to preserve uniformity of decision and to have the supervisory jurisdiction of the Supreme Court felt throughout the system. For this purpose it is highly desirable that the decisions of the circuit courts of appeals should be corrected by the Supreme Court where they are conflicting, and that the court of appeals itself should have power to send any case to the Supreme Court which they may think a proper one for review.

They can now certify particular questions, but in practice this is not found to be, in general, a satisfactory method of appeal, and it makes no saving in time or expense that compensates for its disadvantages. Cases may arise where this method is very desirable, but it is not sufficiently comprehensive to meet the needs of the situation. While this provision may slightly increase the number of cases upon the docket of the Supreme Court, there is no reason to believe that it will do so to such an extent as to seriously inconvenience that court, and we believe the measure is most salutary in giving to the people of the United States the benefit of the final determination of judicial questions by that high tribunal which it was the intention of the Constitution to secure, and from sheer necessity the creation of the circuit courts of appeals is somewhat abridged. Everyone, we are sure, will concur in the opinion that that abridgment should be as small as experience shows may be possible.

Section 10 applies to appeals from orders in regard to injunctions and receivers. The object is to secure a speedy appeal in such cases to the circuit court of appeals, and likewise to confer upon the appellate court or a judge thereof full power to grant a stay of proceedings. This, as experience shows, is a most necessary provision. Most valuable interests may be put in jeopardy or destroyed by injunction or receiver orders or by the denial of such orders, and it is highly desirable in every case that their propriety should be reviewed by the appellate court and in the meantime that the property or interest affected may be preserved. The expediency of this provision, so far as we can learn, has been universally recognized.

Section 11 and section 12 relate to the assignment of judges of the courts of appeals, the reasons for which have already been discussed.

The committee made no provision in regard to the salaries of the United States judges, but we are profoundly convinced that both justice and the good of the public service requires that these salaries should be increased, at least for those judges who are compelled to live and perform their duties in parts of the country where the expenses of living are heavy. The utmost difficulty is found in obtaining men of the first rank in their profession to accept places upon the Federal bench, much as they would desire to do so, because they can not afford to leave their private practice and cripple themselves from making any adequate provision for their families by accepting the small salaries the law now allows. The result of this is that the possession of a private fortune is, in most of the circuits, if not a prerequisite, at least a consideration of great weight in determining the question of accepting an appointment to the Federal judiciary; and this result is one to be avoided. We hope, therefore, most earnestly, that Congress may entertain some measure for relief in this respect, but we did not feel that it fell within the scope of the duties with which we were intrusted to make such a provision in the act herewith submitted.

Very respectfully, yours, EDMUND WETMORE.

Hon. GEORGE F. HOAR,
United States Senate, Washington, D. C.

Mr. Hoar, in introducing the bill to the Senate said (in Senate proceedings of Feb. 27, 1899, RECORD, p. 2432):

Mr. HOAR. I ask leave to introduce a bill for reference to the Committee on the Judiciary. The bill relates to a very important subject, the reconstruction of the district and circuit courts of the United States and their relation to each other. It has been drawn by a committee of the American Bar Association, who had the matter before them for nearly a year. I wish to invite the attention of Members of the Senate to the bill during the recess.

The bill so introduced became S. 5584, entitled "A bill in relation to the courts of the United States."

Senator Hoar then continued (RECORD, p. 2432):

I move that a letter relative to the subject from the chairman of the committee of the American Bar Association be printed as a document.

The motion was agreed to.

The letter referred to was printed and became Senate Document No. 142, third session, Fifty-fifth Congress.

On February 28, 1899 (RECORD, p. 2553), the Senate having under consideration the sundry civil bill, Senator Hoar offered the following amendment in this language:

Mr. HOAR. By direction of the Committee on the Judiciary I offer an amendment to come in on page 124, after line 14, which has been submitted to the chairman of the Committee on Appropriations.

The SECRETARY. On page 124, after line 14, it is proposed to insert:

"It shall be the duty of the commission appointed to revise and codify the criminal and penal laws of the United States, to revise and codify the laws concerning the jurisdiction and practice of the courts of the United States, including the judiciary act and any amendment thereof and supplemental thereto, and all acts providing for the removal, appeal, and transfer of causes."

Mr. ALLISON. That amendment requires unanimous consent; but I do not object to it.

The amendment was agreed to.

That amendment, with slight modification, became a part of the sundry civil act of March 3, 1899, and is to be found in Thirtieth Statutes at Large, page 1116.

Therefore, Mr. Speaker, we have the American Bar Association preparing the bill; we have as a report upon it the letter of the chairman of their committee on Federal legislation, in which he advises exactly the plan that we have adopted and upon which he says he has received the opinion of all the leading judges of the country and most other people best advised upon the subject, and in which he tells us that the wisdom of the course is so universally admitted that it seems unnecessary to discuss that any further.

Mr. Speaker, at that time the Commission for the Revision of the Penal Code was in existence. It then had been engaged in work for a year or two upon that subject, and, upon the motion of Mr. Hoar, this bar association bill, this report, consisting of that letter from the chairman of the Federal judicial legislation section of that association, was referred to that commission, perhaps not in terms, but with the understanding that they had the power and received the instructions to make those changes.

Now, Mr. Speaker, I understand that some exception has been taken by the present members of the American Bar Association to my statement made upon the floor of the House that they did in 1898 adopt a resolution indorsing this legislation.

Mr. BRANTLEY. I stated, Mr. Speaker, that the American Bar Association had at the last annual meeting, in September, adopted a resolution asking Congress not to enact this legislation.

Mr. MOON of Pennsylvania. But the gentleman said more than that. He said that the statement of the gentleman from Pennsylvania upon the floor of this House had been challenged by the American Bar Association.

Mr. BRANTLEY. I put in the RECORD, and my friend from Pennsylvania has no doubt read it, a statement that the committee from the American Bar Association made a statement over their signatures that the association, as an association, has not indorsed this proposition and their records will not sustain this. I said I did not know who was right about it.

Mr. MOON of Pennsylvania. I possess the proceedings of the American Bar Association, and I have it before me at this moment, and I undertake to say to the gentleman from Georgia that I shall demonstrate from their own records that they did indorse this proposition in meeting regularly assembled, and that, too, after a full, prolonged, and thorough discussion of the whole subject by some of the leading lawyers of the country; and my recollection from reading it very recently is that nowhere in all that discussion did a single lawyer take exception to the principle. That is my recollection, and I think I am right.

Mr. PARKER. If the gentleman will pardon me, the real discussion was the year before on the subject of the division of the Supreme Court, and many eminent lawyers participated in that discussion—Mr. Edwards, Mr. Evarts, Mr. Merrick, of Washington, and quite a number of others present at that discussion. The great discussion was they insisted upon keeping the powers of the higher courts to hold cases down below.

Mr. MOON of Pennsylvania. The proceedings of the American Bar Association upon this subject appear in volume 21 of their reports, and are as follows:

On Thursday, August 18, 1898, at the meeting of the association in Saratoga Springs, N. Y., the subject was taken up for consideration, and Edmund Wetmore, of New York, chairman of committee on Federal legislation, presented a report, of which the following is an abstract:

"The committee on Federal courts of the American Bar Association report as follows:

"Your committee, after consultation and discussion, at a meeting held in Washington the 1st and 2d of April, 1898, formulated a series of proposed changes in the organization and jurisdiction of the Federal courts which seemed most desirable and practicable. These proposals were thereafter submitted to a large number of the judges of the United States courts in the different circuits, and to others especially familiar with those courts, and a large amount of correspondence and many personal conferences were had upon the subject.

"As a result, your committee presents its original proposals, with some modifications induced by the criticisms of those to whom they were submitted and subsequent consideration by the committee, and will recommend that they be advocated by the association.

"These proposed changes are as follows:

"It is the opinion of your committee—

"First. That the jurisdiction and powers of the present United States circuit courts should be transferred to the United States district courts within the several districts."

The other portions of the report relate to the detailed manner of carrying this recommendation into effect, and are not essential in the present discussion.

Mr. Wetmore then said:

I will ask that the report be received; and then, if no objection is made, I shall move the adoption of the various recommendations of the committee separately, as being the best method of bringing the subject matter before the association.

A lengthy discussion upon the report was had, many gentlemen of great prominence participating therein. In the course of this discussion Mr. Wetmore, in answer to a question of Mr. Moses, of Illinois, as to the scope of the report, said, among other things:

I would say, in answer to the gentleman's inquiry, that the first object is to consolidate the district and circuit courts. Upon that point, so far as we know, there has been unanimous accord. It is generally agreed that to maintain the two separate organizations is unnecessary, and that simplification is desirable—that instead of two courts we should have one. That is the basis of the change proposed, and, if carried out, it makes it necessary to make some other changes in the law.

The association, after extended discussion and after voting down several amendments, adopted the first article of the report of the committee without change. This article, as above set forth, recommended that the jurisdiction and powers of the circuit court be transferred to the district court. It will therefore be seen that my statement previously made upon the floor of the House respecting the indorsement by the American Bar Association is established by their own report, as these statements I now make I take from volume 21, American Bar Association Reports for the year 1898.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. MOON of Pennsylvania. I would like to have five minutes more.

The SPEAKER pro tempore. Is there objection to the request? [After a pause.] The Chair hears none.

Mr. MOON of Pennsylvania. Well, Mr. Speaker, I will not occupy any further time in a discussion of this point, but I hope I have satisfied this House that the American Bar Association, upon that point, has adopted a resolution recommending just exactly the change carried in this bill, and any assertion to the contrary is not warranted by the facts.

Mr. TILSON. May I interrupt the gentleman? But the gentleman can not say that they did not change their minds about it at the last meeting of the American Bar Association.

Mr. MOON of Pennsylvania. No; I am not saying a word about that.

Mr. TILSON. That is a fact; they did come to a contrary conclusion at the last meeting of the American Bar Association, and asked that this legislation be postponed until it could be more perfectly understood by the American bar.

Mr. MOON of Pennsylvania. I want to say that that is an amazing statement, that a subject that had been acutely agitated for 12 years, which they had before it by resolution and discussed day after day, that they should then ask that it be left open for further consideration in order that people might become better acquainted with it. There is a secret in this whole matter, and I am not sufficiently informed to speak of it now.

Mr. TILSON. Will the gentleman permit an inquiry whether, in his opinion, we should follow the advice of the American Bar Association or not?

Mr. MOON of Pennsylvania. I shall not assume to say, and I brought the American Bar Association into the discussion only because the gentleman from Georgia based his argument upon the American Bar Association records.

Mr. BRANTLEY. Did I understand the gentleman to say "based solely" upon what the American Bar Association did?

Mr. MOON of Pennsylvania. I did not say "solely." You began your speech with a reference to the action of the American Bar Association at Chattanooga.

Mr. BRANTLEY. The action of the American Bar Association was but an incident. It matters not to me whether they favor or oppose this proposition. I am able to exercise my own judgment as to what is right, and it is my judgment that is in opposition to this proposition.

Mr. MOON of Pennsylvania. I can only say in reply to that that the gentleman in his argument, made in December, when he rose to put in the RECORD the report of the American Bar Association, based the introductory portion of his remarks upon that action.

Mr. BRANTLEY. I object to the word "based." I merely referred to what the American Bar Association did.

Mr. MOON of Pennsylvania. Then I withdraw the word "based."

Mr. Speaker, let me tell you what some of the eminent judges of this country have said in later times about it. Perhaps one of the greatest circuits in the United States, or one, at least, that has had the most remarkable record for its members, is the sixth circuit of the United States. A few years ago that circuit consisted of Mr. Taft as senior judge and Judge Lurton and Judge Day as associate justices. Mr. Taft to-day is President of the United States, and Messrs. Lurton and Day are on the Supreme Court of the United States. After the Hoar bill had been referred to the codifying commission, and that commission had made a report recommending the change in the courts, a letter signed by Messrs. Taft, Lurton, and Day was sent to that association, which reads as follows:

UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE SIXTH CIRCUIT, JUDGES' CHAMBERS,
Cincinnati, November 3, 1899.

Hon. ALEX. C. BOTKIN,
Hon. DAVID K. WATSON,
Hon. DAVID B. CULBERSON,
Commissioners.

GENTLEMEN: We have read with much interest your proposed codification of the laws concerning the jurisdiction and practice of the courts of the United States and have especially noted with care the changes provided for in the district and circuit courts and the circuit court of appeals. We fully concur in your view embodied in the proposed legislation that there should be but one court of first instance, and we think that you have taken the wisest course in reaching that end by transferring all the jurisdiction of the existing circuit courts to the district courts.

The existence of the two courts of first instance has long been an anomaly, if not an absurdity, in the Federal judicial system, and their maintenance has been useful only as marking the unusual and in most respects praiseworthy conservatism which Congress has shown in dealing with proposed changes in the organization of the Federal courts.

* * * * * * *

Respectfully,

WM. H. TAFT,
HORACE H. LURTON,
WM. R. DAY,
Judges of the Circuit Court of Appeals for the Sixth Circuit.

Now, it seems to me, Mr. Chairman, in conclusion, having shown that this House in its wisdom at one time did adopt the method carried in this bill of consolidating the courts and that it was prevented from consummation by the action of the Senate; that the Senate of the United States eventually rescinded that position; that the American Bar Association in 1898, comprising many of the most active and eminent lawyers of this country, prepared the Hoar bill for the Senate, and in public meeting indorsed the action of the codifying commission in adopting it, and when its chairman sends to the Senate of the United States a statement that it has interviewed all the leading judges of the country and most other men capable of expressing an opinion upon that legislation; when it says that the wisdom of that course is so universal that they conceded it is unnecessary for them to dwell upon it any further; when I have shown you that the most eminent judges that this country ever had unqualifiedly indorse it and denounce the old system as archaic, absurd, and cumbersome, I thought I was perhaps justified in the remarks that I have made upon the floor of this House in so characterizing it, and I think this testimony is a complete answer to all that the gentleman from Georgia has said upon the subject.

I ask for a vote upon the pending amendment.

Mr. TILSON. Mr. Speaker, as bearing upon this immediate subject, I desire to extend my remarks in the RECORD by hav-

ing printed as a part of such remarks the report of a special committee of the State Bar Association of Connecticut, together with the attest of the secretary, showing the adoption of the report by that association at a meeting held in Bridgeport, Conn., on February 6, 1911. The gentlemen composing this association are lawyers and judges of high standing in my State. The special committee submitting the report is composed of leaders at the bar of my home city. The report itself is sufficient proof that they have given the subject careful study, and I desire that the House may have the benefit of it. I ask unanimous consent for that purpose.

The SPEAKER pro tempore. The gentleman from Connecticut asks unanimous consent to extend his remarks in the RECORD. Is there objection? [After a pause.] The Chair hears none.

Following is the report:

Report of the special committee of the State Bar Association of Connecticut on the judicial code pending in Congress.

To the State Bar Association of Connecticut:

The undersigned, having been recently appointed a special committee to examine the bill now under consideration in the Congress of the United States, to be known, if passed, as the judicial code, and to report thereon, respectfully report that they have procured, through the kindness of Congressman TILSON, a copy of the bill, which is submitted herewith.

The bill in question forms a part of the work of the Committee on the Revision of the Laws of the United States, and was reported in the Senate on March 9, 1910 (S. 7031), and in the House of Representatives on March 23, 1910 (H. R. 23377).

In the main, it is but a revision and codification of the existing laws relating to the judiciary.

In one respect, however, it seeks to make a very important and far-reaching change in the law by abolishing the circuit court of the United States and conferring all of its power and jurisdiction upon the district court. The judges of the circuit court are to sit in the circuit court of appeals and have appellate jurisdiction only, except when designated, as they may be, in cases of emergency, to hold district courts.

It is said that this change was recommended by the American Bar Association in 1898, but we doubt whether that body now entertains the same views, for the following resolution was, at the meeting of the association held at Chattanooga, Tenn., referred to its committee on judicial administration and remedial procedure:

"*Resolved*, That the proposition to abolish the circuit courts of the United States, contained in a bill now pending in Congress, is a matter of such serious importance that final action should be deferred till the profession has thoroughly investigated and considered the same.

"*Resolved further*, That the committee on judicial administration and remedial procedure be instructed to investigate the merits of said bill and report the result of such investigation to this association at its next meeting.

"*Resolved further*, That the Committee of Congress on Revision of the Laws be requested to postpone action on said bill at the next session of Congress."

Further information on this subject is to be had in the report of the American Bar Association for 1910, at page 497.

The reasons for the proposed change are contained in the report of the Committee on Revision.

So far as we have been able to ascertain these reasons do not wholly commend themselves to the profession.

We fail to see how this change can effect any substantial economies. It is not proposed to reduce the number of judges, nor is the volume of business likely to be reduced. The amount of clerical services depends upon the amount of litigation, and we fail to see how any great economy can result from this.

Where, as in this district, the same person is clerk of both courts, and the same officers and courtrooms are used, we see no advantage in this respect.

Judge Don. A. Pardee, of the fifth circuit, in a series of letters to Members of Congress, has discussed the proposed change very fully.

We concur in the criticism made by him that the bill is objectionable in that it abolishes the circuit courts and at the same time fails to provide in their stead any judicial officer having original cognizance of such matters as restraining orders, temporary injunctions, applications for the appointment of receivers of corporations, etc., whose territorial jurisdiction extends to the entire circuit. The result is that if a restraining order is desired, operative in the State of Connecticut, it can not be perfected in the absence of the district judge.

It is true that on page 184, lines 17–22, an attempt seems to have been made to partially escape this criticism by giving to any circuit judge of the circuit court in which the district is situated power to grant an injunction or restraining order pending in the district court "where the same might be granted by the district judge." The concluding phrase, however, leaves the extent of the authority thus conferred problematical. The district judge, for example, would not have any power to grant any restraining order unless he were at the time of granting such order within the territorial limits of his own district, nor could he then grant any order which would be operative beyond the limits of his own district. We do not believe that a circuit court sitting in the city of New York, for example, would under this statute assume the right to sign a restraining order operative within the district of Connecticut.

Theoretically, the provisions for the designation of another district judge in cases of necessity cover this defect, but practically, and for all the purposes of immediate or summary relief, no judge is available.

The difficulty which will result in the matter of receiverships of corporations doing business in several districts in the same circuit is sufficiently covered by Judge Pardee's letters, and it is quite untouched by the limited authority of the circuit judges above quoted.

We think the bill should in terms specify whether the jurisdiction in a given class of cases is intended to be exclusive or concurrent with the courts of the several States. The bill undertakes to do so in part, namely, in chapter 10, which provides for cases in which the jurisdiction of the United States courts shall be exclusive which, unfortunately, differ from the classification of matters of original jurisdiction stated in chapter 2. We think the classification in chapter 10 should correspond literally and exactly with that in chapter 2. But a more serious difficulty arises from the lack of any admission or exclusion of the concurrent jurisdiction of the courts of the several States in cases not referred to in chapter 10. The present statutes relative to the jurisdiction of circuit courts expressly provide for the concurrent jurisdiction of courts of the several States in many instances. What is the effect of the deliberate omission of that language in a so-called "revision," which is not a revision in the ordinary sense of that term, because it contains radical changes, especially changes in the very matter of jurisdiction itself?

Again, take such a case as that of an action brought under the seventh section of the Sherman Act to recover threefold damages. That section expressly confers jurisdiction on the circuit courts of the United States. Whether or not such jurisdiction is exclusive (a) when the special remedy is demanded; (b) when simple damages only are asked for, are questions which, if not easily determined, are at least to be determined in accordance with certain recognized principles of general law.

Assuming that jurisdiction in such cases is intended by this act to be transferred to district courts, we are met by the additional difficulty that the entire jurisdiction of these courts is now brought within a single act which purports to specify the classes of cases in which exclusive jurisdiction is conferred. Is it intended by this act to confer concurrent jurisdiction on the State courts of actions brought under section 7 of the Sherman Act? And of actions brought under other statutes of the United States, where the cause of action is created by the act, and the remedy is special? Or of actions brought under other statutes relating to matters within the exclusive jurisdiction of the Federal Government and not specially referred to in chapter 10?

These are questions which, it seems to us, ought to be answered by the act itself if it is to be in fact, as well as in name, "the Judicial Code."

Take, again, the matter of procedure in the district courts under the new act. Is it intended that the rules which are now in force in the courts of the several districts for the regulation of procedure in civil causes in law and in equity shall be the rules of the corresponding district courts?

Again, the special provision in respect of the terms of the district courts in the district of Connecticut seems to us very objectionable. It is provided that terms of the district court shall be held at New Haven on the fourth Tuesdays of February and August and in Hartford on the fourth Tuesday in May and the first Tuesday in December. In the first place, there is a serious objection to having four terms of the district court of general jurisdiction annually. Not only because of the accumulation of clerks' fees for continuances, etc., which will result, but because the expiration of a "term" of court involves certain consequences in the matter of perfecting appeals by writs of error from judgments rendered in actions at law, which simply will constitute an unnecessary trap for the profession which is unaccustomed on the whole to the technicalities of common-law procedure. At the present time we have two terms only of the circuit court, and it is unnecessary in our judgment to have more than one "term" annually. We realize that the court should be required by statute to sit at intervals for the disposition of criminal causes, at least, but these might be denominated "sessions," which would avoid clerks' fees and technical difficulties above referred to.

Finally, there is a very specific objection to having any "term" or "session" of the district court as a court of general jurisdiction beginning on the fourth Tuesday of August in New Haven. Under our practice our State courts are then closed and all of our rules of procedure requiring the filing of papers, etc., are suspended for the months of July and August. The present stated term of the district court at that time is never actually held, but always adjourned as a matter of formality. This is of little consequence in the case of a court of such limited jurisdiction, but if the jurisdiction of the court is to be extended as contemplated by this act and its terms of session are to be controlled by statute the statute should at least nominate some other time.

The present rule of our circuit court, adopted in January, 1910, provides that actions at law may be returned to court upon the first Monday of any month except July and August. With this rule in force there is no reason at all why there should be more than one "term" of the Federal court in this district for civil business.

Believing as we do that no substantial advantage is likely to accrue from the proposed abolition of the circuit courts sufficient to offset its obvious disadvantages, inasmuch as the present system of Federal courts is well understood and perfectly satisfactory, we look askance at the proposal to make this experiment.

We at least hope that it will not be made until it is understood and approved by a fair majority of the bar.

The bill is being considered by the House on Wednesdays, and many sections have been already adopted.

If any action be taken by this association it should be communicated to one of our Representatives in Congress before Wednesday next, February 8, 1911.

We recommend the passage of the following resolution:

"*Resolved*, That as at present advised the State Bar Association of Connecticut does not favor the abolition of the circuit court of the United States and respectfully requests that congressional action to that effect be postponed until the next session of Congress, to the end that the bar of the country may have a fuller opportunity to form and express an opinion as to the desirability of the change proposed."

Respectfully submitted.

GEORGE D. WATROUS,
JOHN K. BEACH,
GEORGE D. SEYMOUR,
Committee.

FEBRUARY 6, 1911.

The within and foregoing report was accepted and the resolution unanimously adopted and passed at the annual meeting of the State Bar Association of Connecticut, held in Bridgeport February 6, 1911.

Attest:

JAMES E. WHEELER,
Secretary State Bar Association of Connecticut.

Mr. BUTLER. Mr. Speaker, will the Chair state the parliamentary situation in order that we may understand it?

The SPEAKER pro tempore. The question is now on the amendment of the gentleman from New Jersey [Mr. PARKER] to the amendment offered by the gentleman from New York [Mr. PARSONS].

Mr. PARSONS. Mr. Speaker, I just wish to explain the situation. The situation, so far as the American Bar Association

in the past is concerned, is that it favored the abolition of any provision for two trial courts. So did the judges. Now, we have already accomplished that in this bill, because in the first chapter we conferred all the jurisdiction that was in the circuit court as a trial court upon the district court. Now, if the House desires to continue in the circuit judges the powers they as judges of the circuit court had under the old system, then they must do it at this time by adopting some or all of these amendments. The American Bar Association has never said, nor did the judges quoted by the gentleman from Pennsylvania say, that the circuit court justices or circuit court judges should be taken out of the trial work or chambers work or motion work. It was only to provide that they should continue that work that I offered my amendment to section 116—a matter as to which members of the committee had differed—so that the judges would continue to do that work. The gentleman from New Jersey moved to amend it so that the circuit court justice would continue in that work, and the gentleman from West Virginia offers an amendment which he thinks has the effect to further perfect that system.

The SPEAKER pro tempore. The question is on the amendment offered to the amendment of the gentleman from New Jersey.

Mr. MANN. Mr. Speaker, I ask unanimous consent that all these amendments may be again reported.

The Clerk again read the amendments offered by Mr. PARKER, Mr. PARSONS, and Mr. HUBBARD of West Virginia.

Mr. MANN. Mr. Speaker, I would like to make one inquiry. Is there any other proposition in the bill covering the circuit court judges at large as to their holding court?

Mr. PARSONS. No; except as they may be designated to do certain work. They will be allotted to circuits, as I understand, after they finish the work in the Commerce Court.

Mr. MANN. They are circuit judges at large; while appointed from distinct circuits their work is not required to be in those circuits.

Mr. PARSONS. They will be allotted to the circuits after they have finished the work in the Commerce Court.

Mr. MANN. They are appointed from the circuits.

Mr. PARSONS. Unless they are circuit court judges they are not covered by this provision.

Mr. MANN. They are appointed from five different circuits, but not circuit court judges of those circuits. They are circuit court judges at large.

Mr. PARSONS. Then there would be no circuit over which they would have the power and jurisdiction of a district judge.

Mr. MANN. But perhaps they ought to have.

Mr. HUBBARD of West Virginia. Is it not provided in the law that when their work is not required in the Commerce Court they shall be designated as judges of a certain circuit?

Mr. MANN. When they go out of the Commerce Court, what becomes of them?

Mr. HUBBARD of West Virginia. I understood that they were assigned to given circuits.

Mr. MANN. There is no such provision that I remember. They are circuit judges at large and can sit at any place.

Mr. HUBBARD of West Virginia. But they must be sent to some place, and when they are sent to a certain circuit they become a judge of that circuit.

Mr. MANN. The proposition of the gentleman from New York is that each circuit judge shall reside within his circuit and shall have certain jurisdiction. Now, how about one of these Commerce Court judges or circuit judges at large? He is not required to reside in any particular circuit, and I suppose he ought to have some jurisdiction.

Mr. PARSONS. I do not think that is so necessary, because the prime object of my amendment is to make the circuit judges available to litigants and lawyers.

Mr. MANN. I understand, and I am in sympathy with the purpose of the gentleman from New York. I did not know whether this was covered in any place, but there will be ample time to hereafter cover it if it is not already covered.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New Jersey upon the amendment of the gentleman from New York.

The question was taken; and on a division (demanded by Mr. MOON of Pennsylvania) there were—ayes 31, noes 14.

So the amendment was agreed to.

The SPEAKER pro tempore. The question now is upon the substitute amendment offered by the gentleman from West Virginia.

Mr. PARSONS. Mr. Speaker, as I understand it, the gentleman from West Virginia really does not offer his amendment as a substitute, because he is in favor of my amendment as amended.

Mr. MANN. Does the gentleman offer his amendment as a further amendment?

Mr. PARSONS. He offers his amendment as a further amendment.

Mr. HUBBARD of West Virginia. Mr. Speaker, I gladly withhold it until the amendment offered by the gentleman from New York [Mr. PARSONS], as amended, is voted upon; and then I shall ask unanimous consent that my proposition, amended to accord with the action had on the amendment of the gentleman from New Jersey, may be considered as section 22 of chapter 1, where perhaps it would more appropriately belong. So I withhold it for the present.

The SPEAKER pro tempore. Does the gentleman from West Virginia withdraw his amendment?

Mr. HUBBARD of West Virginia. At this time.

The SPEAKER pro tempore. Well, if he withdraws it, he withdraws it.

Mr. MANN. The gentleman can not offer it at any other place.

Mr. PARSONS. As I understand the parliamentary situation, he may be allowed to offer it afterwards.

Mr. HUBBARD of West Virginia. Perhaps I can reach my purpose by moving this as an amendment at the end of the amendment which has been adopted.

The SPEAKER pro tempore. But the gentleman has offered his amendment as a substitute amendment. Does he withdraw it as such?

Mr. HUBBARD of West Virginia. As such, and move it as an amendment to come in at the end——

The SPEAKER pro tempore. That will come in later. Is there objection to the withdrawal of the substitute amendment of the gentleman from West Virginia? [After a pause.] The Chair hears none.

Mr. HUBBARD of West Virginia. Now, I offer it as an amendment, to come in at the end of the amendment proposed by the gentleman from New York.

The SPEAKER pro tempore. The gentleman from West Virginia now offers an amendment to the amendment offered by the gentleman from New York, which the Clerk will report.

The Clerk read as follows:

Insert, at the end of the Parsons amendment as amended, the following:

"District courts shall be held by the circuit justice or by the circuit judge of the circuit or by a district judge of the district sitting alone, or by any two or more of the said judges sitting together. When two judges sit together, if the circuit justice be one, he shall preside, otherwise the circuit judge shall preside, and the judgment or decree shall be in conformity with the opinion of the presiding judge. Cases may be heard by each of the judges holding a district court sitting apart, by direction of the presiding judge designating the business to be done by each."

The SPEAKER pro tempore. The Chair desires to state to the gentleman from West Virginia that his amendment seems to be an amendment to the amendment offered by the gentleman from New Jersey, which has already been adopted.

Mr. HUBBARD of West Virginia. On the contrary, it is an amendment to the amendment of the gentleman from New York, which has already been amended on the motion of the gentleman from New Jersey.

The SPEAKER pro tempore. But it is an amendment to the amendment as amended.

Mr. HUBBARD of West Virginia. Exactly.

The SPEAKER pro tempore. The Chair will examine the amendment.

Mr. HUBBARD of West Virginia. Mr. Speaker, possibly it may afford some relief if I now ask unanimous consent to withdraw this, and that it may then be considered as offered as section 22, that section in the original bill having been since omitted. I ask for that unanimous consent.

The SPEAKER pro tempore. The gentleman from West Virginia asks unanimous consent that his amendment at this point may be considered as withdrawn and as pending to section 22. The Chair thinks the gentleman has a right to withdraw his amendment.

Mr. HUBBARD of West Virginia. I desire now to ask unanimous consent that when the pending amendment is determined, immediately after such action on the amendment of the gentleman from New York, what I have offered may be considered as offered as section 22 of the bill. Unless I can have that unanimous consent I do not care to withdraw it at present.

The SPEAKER pro tempore. The gentleman asks unanimous consent that the amendment, if he now withdraws it, may be considered as pending and may be acted upon as an amendment to become section 22 of the bill. Is there objection? [After a pause.] The Chair hears none.

The question now is on the amendment of the gentleman from New York as amended, and without objection the amendment will be again reported.

There was no objection, and the Clerk again reported the amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER pro tempore. Now, unanimous consent having been given, the gentleman from West Virginia offers an amendment to section 22.

Mr. HUBBARD of West Virginia. To come in as section 22, there being now no such section in the bill.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Insert as section 22:

"District courts shall be held by the circuit justice or by a circuit judge of the circuit or by a district judge of the district, sitting alone, or by any two of the said judges sitting together. When two judges sit together, if the circuit judge should be one, he shall preside, otherwise the circuit judge shall preside, and the judgment or decree shall be in conformity with the opinion of the presiding judge. Cases may be heard by each of the judges holding a district court sitting apart, by direction of the presiding judge, that judge designating the business to be done by each."

Mr. MANN. Mr. Speaker, may I ask the gentleman a question? Is he quite sure that this will permit the holding of a district court by three judges? Apparently it would limit it to one or two judges.

Mr. HUBBARD of West Virginia. I had not considered that question in framing it.

Mr. MANN. Is not that the wording, that the district courts may be held by one or by two judges?

Mr. HUBBARD of West Virginia. It may be held by the circuit justice, the circuit judge, or the district judge, or by any two of them. I do not think it would necessarily interfere with the case the gentleman speaks of.

Mr. MANN. When you give express authority that one judge may hold a court, or two judges may hold a court, is that not an express limitation on three holding a court?

Mr. HUBBARD of West Virginia. I am inclined to agree with the gentleman.

Mr. MANN. There are cases where it would require three judges to hold a court.

Mr. HUBBARD of West Virginia. It may be two "or more." I will modify it in that way, without objection.

The SPEAKER pro tempore. Without objection, the amendment will be so modified. [After a pause.] The Chair hears none.

Mr. MOON of Pennsylvania. Mr. Speaker, I will not engage in any extended discussion, but I am opposed to this amendment. I am opposed to it because if we adopt it we are humiliating a district judge; we enlarge the jurisdiction of his court, place upon him added duties and responsibilities, and then put the entire arrangement of the business in the hands of the judge of the circuit court. Under present conditions, during the past 15 years, the district judge has been doing nearly all the business of the circuit court, and now when we extend the jurisdiction of his court to include the jurisdiction he has so long exercised, by the same act we are asked to put the circuit judge in his court with absolute power to arrange the business and dispose of it as he sees fit.

Now, I do not propose to speak, but to read from experienced judges on this question. I read a moment ago from a letter from Judge Taft and Justices Lurton and Day, judges at that time, respecting another feature of this proposed codification. They say upon this subject, the subject of the arrangement and transaction of business in the district court:

We suggest the wisdom of a provision that shall enable the circuit court of appeals of a circuit or the circuit court, as it is called in the proposed code, by order made in open court to designate and authorize one of its members to hold a district court in an emergency. The requirement that this shall be done in open court by formal order will, it is thought, prevent the holding of district court by circuit judges save in exceptional cases. We know and approve the policy of confining the judges of the appellate court to that court and understand the apprehension felt by members of the bar that the constant association of members of the appellate court as colleagues makes it unwise to require them to consider in review the judgments of any one of them, but we feel sure that emergencies may arise rendering it most desirable that one of the circuit judges should be enabled to hold a district court in exceptional cases.

Now, upon the same subject I received only to-day a letter from a very distinguished district judge, whose name I can not mention, who has given this matter a very great deal of consideration. He called upon me a few days ago and discussed it. He has been reading all the discussions that have taken place, in the RECORD, and he writes me this:

* * * Now, as to the general proposition: I can not urge too strongly the objection to anything like Mr. HUBBARD'S amendment. For my part, I see no objection to a clause providing that a Justice of the Supreme Court and circuit judges shall be eligible to sit in the district court; but to create that court one of original jurisdiction in all matters and then to take away from the district judges even the exclusive jurisdiction that they now possess and make them one and all in effect dependents upon or deputies for the circuit judges, who are supposed to be members of the appellate court, to review their action, would, to my mind, be hurtful in the extreme. It would destroy the independence of the district judges, who have for more than a century performed the work of the two courts, in large measure, and entirely that of their own courts, and now to add to the importance of the court and detract from the authority of the judges holding them would seem to be unfortunate in the extreme. Heretofore the district judges have been entirely independent; and while they have done the work of the circuit judges, it has been optional with them, and if they were not permitted pleasantly to do the same they could quit. But the present proposition would reverse conditions entirely, and I can imagine an unfortunate situation, which would sometimes make the district judge's life anything but happy and his position one of extreme embarrassment and dependence.

Much as I desire to bring about the reform in consolidation of the courts, I believe that to adopt this amendment would be more injurious to the successful administration of our courts than it would be to leave the present system untouched. I hope the House will defeat the amendment.

Mr. HUBBARD of West Virginia. Mr. Speaker, so far from this bill and this amendment doing what is suggested by the gentleman from Pennsylvania, as far as the business of the circuit court is concerned, it simply preserves the present status. This bill proposes to deprive the circuit court judges of all power in the court of original jurisdiction. This amendment proposes to preserve to the circuit judge the power which he now has. Now, the only possible case in which a district judge has heretofore had exclusive jurisdiction and would no longer under this amendment have that exclusive jurisdiction is one of that class of cases in which there is no likelihood that the circuit judge would want to sit, and ordinarily would not sit. A district judge now has exclusive jurisdiction only in cases of admiralty, criminal law, and bankruptcy. Generally speaking, that is so. What harm would be done if the circuit judge, if he so desired, should sit in a case of one of those classes, I do not know. But the change of the name of the court as proposed by this bill would not change the nature of it. The great bulk of litigated business is business in the circuit and not the district court, and this bill proposes to deprive the circuit judge of all his power as a judge of original jurisdiction.

It is the very thing of all others that ought not to be done, as was convincingly demonstrated by the gentleman from Georgia [Mr. BRANTLEY].

Now, I do not see how the gentleman from Pennsylvania [Mr. MOON] can draw on his imagination enough to imagine that a district judge would feel humiliated simply because he has not succeeded, by virtue of the enactment of this statute unamended, in keeping the circuit judge from taking any part in the discharge of that sort of business in which he heretofore has had the right to sit. I do not think gentlemen need give themselves concern about the circuit judge interfering too often or unduly with the business of this court of original jurisdiction. The trouble has always been that it was too difficult to get a circuit judge to sit. They are as well convinced of the inconvenience of a district judge sitting in the circuit court of appeals in review of their own judgment in the lower courts as anybody can be. They are very loath to go into the court of original jurisdiction, particularly in a circuit where their decision may have to be reviewed by a court on which sits a district judge. There need be no apprehension either that the district judge would be humiliated because he is still allowed all the jurisdiction, practically speaking, that he has had, and no apprehension that the circuit judge will have any disposition to do any more work than in the exercise of his conscientious judgment he may feel called on to do upon consideration of the representations made to him by those concerned in the litigation.

Mr. MADISON. Mr. Speaker, I have been listening with a good deal of interest to the discussion that has taken place upon the amendment offered by the gentleman from West Virginia [Mr. HUBBARD], and I feel I do not want it to close without saying something upon the question under discussion, because I feel it is of the utmost importance that this amendment should be defeated. Why? It puts the district judge under the guardianship of the members of the circuit court of appeals. They review the judgments of the district judges when they go to them by appeal in the regular order, and if this amendment is adopted and a case of importance is brought into a district court and a judge of the cricuit court of appeals wants to go down and control the trial and judgment of that case he can practically supersede the district judge of your lower court, take absolute control of the case, and his judgment is the judgment of the court. It does destroy the independence of the district judge. It is a humiliation of him. It does have the effect of striking directly at his independence, and if there is any man on the face of the earth that ought to be independent in

the matter of the exercise of his duties it is a judge. There ought not to be somebody over him, as this amendment provides.

Mr. CULLOP. Will the gentleman from Kansas permit a question?

Mr. MADISON. There ought not to be somebody that has the power to go to his court and take away from him the jurisdiction of a case pending before him.

Mr. CULLOP. Will the gentleman permit a question now?

Mr. MADISON. No; not at this time.

There ought to be an appeal and a fair review of his decision, and that is provided in this bill. The gentleman from Pennsylvania [Mr. MOON] has worked earnestly, together with a number of those with him upon the committee, following the line suggested—as I think he has clearly demonstrated it here—by the American Bar Association, for the purpose of giving us a judicial system that is workable, that is harmonious, and that will be the best that the country has ever had. And this amendment, in effect, strikes out one of the most substantial things that is contained in the bill that is now before this House. I assert, in conclusion, gentlemen, that it is a mistake to destroy the independence of your district judges, that it is a mistake to permit some man from Minneapolis or St. Louis or New York City, or some other place, to go at his sweet will and take away from the district judge the exercise of the functions that he is called upon to perform. [Applause.]

Mr. HUGHES of New Jersey. Mr. Speaker, I would like to ask the gentleman who has just taken his seat if the effect of this amendment will be—and I will say frankly that I do not understand the amendment; in fact, I do not think I was paying attention when it was read—to enable the circuit judge to go down and try a case originally?

Mr. MADISON. Oh, yes; and absolutely supersede the district judge who, under the law, is given the original jurisdiction.

Mr. HUGHES of New Jersey. If he does that, can that case, then, still be appealed to this court?

Mr. MADISON. Yes; and appealed to the same court and the same man who decided in the court below.

Mr. HUBBARD of West Virginia. Not to the same man.

Mr. MADISON. Well, to his associates.

Mr. HUBBARD of West Virginia. There is a prohibition of that.

Mr. MADISON. If that is true, I stand corrected. But an appeal to the court of which he is a member and to which there will come decisions that were rendered by other members of the court under the same conditions and which he must review. We found in the territories that it is a very bad system, the system of permitting appellate court justices to sit as nisi prius judges.

Mr. NORRIS. That was called to the attention of the House by the letter read by the gentleman from Pennsylvania [Mr. MOON] from Judge Taft, Judge Lurton, and Judge Day.

Mr. MANN. Of course, that is not involved in this amendment. That we have disposed of. What would you do where we have four circuit court of appeals judges and only three required to sit? The gentleman would not have one remain idle.

Mr. MADISON. I do not know why the four circuit judges should not sit in the court of appeals.

Mr. MANN. There is no reason why; but the law does not provide for it.

Mr. NORRIS. The law does not prohibit it.

Mr. MANN. It provides for three to sit.

Mr. MADISON. There are four in my circuit.

Mr. MANN. But only three sit in the court of appeals at once. It would not be advisable to have an even number of judges sit, I think the gentleman will agree to that.

Mr. MADISON. No; I would not if it was necessary in order to put the fourth judge at work.

Mr. MANN. That matter is not involved here. We voted that into the bill in another place. I do not quite understand the proposition before the House. The gentleman from West Virginia stated that these men have authority to sit—the district judge, the court of appeals judge, and the circuit court justice—and they might have a divided opinion. Now, what would be the judgment rendered?

Mr. MADISON. I think it is a mistake to give to the circuit judge of appeals the duties of a nisi prius judge. The bill as it now exists, as I understand it, takes away from the circuit judge—unless the amendment recently adopted——

Mr. MANN. The amendment recently adopted covers that.

Mr. MADISON. Gives to him the powers of a trial judge? I say frankly I was out at the time when that was adopted, and I do not know what it was.

Mr. MANN. That provides for a circuit judge of the court of appeals and the circuit justice to sit as a district judge.

Mr. MADISON. That being true, I would still be opposed to this amendment upon the ground that it does provide that a judge that holds the higher commission shall control the decision; that he may go down and sit with the district judge and, in fact, supersede him; because if it is his decision that controls, the practical effect of it is to supersede the judge below.

Mr. MANN. This is a very important matter.

Mr. HUBBARD of West Virginia. If the gentleman will permit me, I want to say that it has already been provided that the circuit court judge may, to all intents and purposes, be a district judge. Now, in every district you have two district judges. Assuming that they are to be assigned and the judges differ in opinion as to which shall hold the court or as to the division of their work, what is going to happen under the view of the gentleman from Kansas?

Mr. NORRIS. That is already provided for.

Mr. HUBBARD of West Virginia. Not at all.

Mr. MADISON. Then let it be provided for.

Mr. NORRIS. As I remember, back further in the bill it is provided that if they do not agree as to the distribution of the work between them then the senior circuit judge in the district shall determine and settle it. That is only from my recollection.

Mr. HUBBARD of West Virginia. Here is the question: Either of two judges can sit at a trial and each judge wants to do so; that is the assumption of the gentleman from Nebraska.

Mr. NORRIS. No, indeed; that is not my assumption.

Mr. HUBBARD of West Virginia. There is a difference of opinion between the judges.

Mr. NORRIS. I have not assumed anything of that sort.

Mr. HUBBARD of West Virginia. There is a difference of opinion between the two judges. Now, if there is no difference, then there is no necessity for the legislation, but where there is a difference between them the proposition in this bill is in a case of that sort that there shall be a preliminary trial before the senior circuit judge. Where we have two judges and each of them wants the jurisdiction of that matter, that the case shall be first heard before another judge, in order to determine who shall hold the court and try the case.

Mr. NORRIS. Oh, not at all.

Mr. HUGHES of New Jersey. Mr. Speaker, I ask unanimous consent that my time be extended five minutes. [Laughter.]

The SPEAKER pro tempore. The gentleman from New Jersey asks unanimous consent that his time be extended five minutes. Is there objection?

There was no objection.

Mr. NORRIS. I think my friend from West Virginia has not given the proper construction to what I said I thought was another provision in the bill, where there is a district having more than one judge—and, as a rule, the districts have only one judge—but if a district has two judges in it, if they do not agree as to the division of the work between them, then this bill, as I understand it, provides that they shall submit the matter to the senior circuit judge.

Mr. HUBBARD of West Virginia. And try the question out there first.

Mr. NORRIS. I hope the gentleman will let me make my statement, and then he can make his. Assuming that there were five or six places of holding court and the two district judges could not agree as to which one should hold the court at A and which should hold the court at B, they would submit their dispute to the senior circuit judge, and he would say this judge shall hold court in these places and this other judge shall hold court in those places.

Now, the same case could not arise in two different places at the same time, and hence there would be no trial, as the gentleman from West Virginia [Mr. HUBBARD] assumes, of some particular case. The dispute would not arise as to who would try this case or that, but who should hold court at this place or that; and whatever case arose, of course the presiding judge would have to try.

Mr. HUBBARD of West Virginia. Does not the gentleman see that there might also be a question as to which judge shall try a case which must be tried at but one place?

Mr. NORRIS. If the senior circuit court upon a dispute should say that Judge A should try the cases that were pending in city A, then Judge A would try them there. There could not be a dispute between the district judges.

Mr. HUBBARD of West Virginia. Suppose there is only one place of session, and there is only one place where a case can be tried.

Mr. NORRIS. Very well, if there is only one place in the district where court can be held, I do not believe the gentleman will find that there are two district judges. There is not such a case in the United States.

Mr. HUBBARD of West Virginia. The amendment just adopted has made in every district two district judges—the district judge and a circuit judge—with full district judge powers.

Mr. NORRIS. Yes; but that has nothing to do with the dispute between two district judges as to which shall try cases in this place or that place. In the case the gentleman puts, the circuit judge, or if it happens to be the circuit justice, will be supreme and the district judge will have to submit.

Mr. HUBBARD of West Virginia. Why is that so? There is no provision that I can find in the statute, and that is the very purpose of this amendment.

Mr. NORRIS. Oh, no; as I understand the gentleman's amendment, it goes much further than that. It takes away from the district judge the same as though we provided in the gentleman's case, where the district judge or the circuit judge, if he is so called in the gentleman's State, would have the right to go down and try a lawsuit that some justice of the peace had under consideration or under trial.

Mr. HUGHES of New Jersey. Mr. Speaker, I simply rose for the purpose of attempting to discover whether or not the passage of this amendment and the fact that it enabled the circuit judge to go down into the district court would thereby do away with one trial or argument; and if I had been assured of that fact by the gentleman from Kansas [Mr. MADISON], for whose legal learning I have a great deal of respect, I would have been inclined to vote for it. I am sorry that the learned gentleman who is in charge of this particular measure has not seen his way clear to make some attempt to do away with these interminable appeals that are such an affliction to the American people; although I suppose I ought to say right at that point that there is no ill from which the American people are suffering of which they are so fond and so loath to part with as the right of appeal. I have noticed that everywhere, throughout my law practice. As soon as a man is beaten in a lower court, he is quite sure that if he can only get an appeal he is going to win, and that is what makes litigation——

Mr. NORRIS. Interesting.

Mr. HUGHES of New Jersey. Practically endless and profitable to the lawyers—interesting, of course, but still hardly calculated to promote justice.

Mr. JAMES. I would like to ask the gentleman what per cent of cases appealed from district courts are reversed when they appear in the circuit court.

Mr. HUGHES of New Jersey. A great many of them, I will say, but who is going to say that the judge who has the last guess made the right guess?

Mr. JAMES. Yes; but we have more of them to make the last guess.

Mr. HUGHES of New Jersey. I have seen this situation exist myself: I have seen a judge try cases, and try them upon a certain theory, applying certain principles of law, and apparently do justice and satisfy everybody.

Mr. JAMES. Of course the gentleman knows one particular case——

Mr. HUGHES of New Jersey. Wait until I finish my statement. I am not talking about one case. I am talking about one judge whom I regard as the greatest judge I ever came in contact with, and he used to try cases and apply principles of law to them which almost everybody thought had been applied properly. Some litigant would take an appeal and the question would be thrashed out before the Supreme Court, which, in my judgment, was no better qualified to pass upon it than the trial judge. For some reason or another the decision of the trial judge would be reversed, and I have seen, years after, after that judge had passed away, the Supreme Court come around to the theory of the law upon which he determined the case years before, and in the meantime the litigants were still in court. But the point I am trying to make is this, that in all human probability there is just as much likelihood of getting a case tried right the first time as the last time, even after a thousand intervening appeals, and in the meantime there has been the expense and anxiety of the litigants, to say nothing of the disrepute into which the entire practice of the law falls.

Mr. CULLOP. Mr. Speaker, I want to oppose this amendment for two reasons. The amendment, as I understand it, is to take one of the circuit judges and allow him to sit at trials with the district judge in the hearing and determination of causes. This gives the circuit judge domination over the business of the district judge, which, in my judgment, is objectionable. And the other reason that it ought to be defeated, in my judgment, is that whenever you appeal from the decision of a court thus constituted, you appeal to the appellate court of which the circuit judge so sitting at the trial is one of the members of the court. He has already expressed his opinion in the trial and reviewed it on motion for a new trial. He sits there to have that opinion affirmed and is an interested party as to the result. He is molded in his views of the matters which are brought to the appellate court to be reviewed, having already passed upon them at the trial. The appeal ought not to be made to a court of which such a judge is a member. It is unfair to litigants, it is unjust to the court, and for these reasons I think the amendment ought to be voted down in the promotion of justice and for the preservation of the dignity of the courts.

The SPEAKER pro tempore. The question is upon the amendment offered by the gentleman from West Virginia.

The question was taken, and the amendment was rejected.

Mr. MONDELL. Mr. Speaker——

The SPEAKER pro tempore. For what purpose does the gentleman rise? The Chair will state that there is one amendment pending under the order of the House, which is to be considered at this time. There are several amendments pending, passed over by general consent, no specific order being made for bringing them up to-day. The amendment now in order under the provisions of the order of the House is the amendment offered by the gentleman from Illinois [Mr. MANN].

Mr. PARSONS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. PARSONS. What is the situation with regard to the amendments to sections 148 to 155?

The SPEAKER pro tempore. They were passed over generally without an order as to their consideration.

Mr. PARSONS. And we may recur to them at any time?

The SPEAKER pro tempore. They may be recurred to.

Mr. MANN. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MANN. The amendment of the gentleman from Georgia, was that postponed?

Mr. BARTLETT of Georgia. His proposition would come up after mine. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BARTLETT of Georgia. Do I understand the Chair to say that when this unanimous consent in reference to the disposition of amendments first shall have been disposed of, that my amendment would be in order?

The SPEAKER pro tempore. When this amendment has been disposed of, then the question recurs to section 166, which was pending when the House adjourned one week ago and to which the gentleman then had an amendment pending.

Mr. MONDELL. Mr. Speaker, on June 21 last the President of the United States sent to Congress a very brief message, as follows:

To the Senate and House of Representatives:

There are, perhaps, no questions in which the public has more acute interest than those relating to the disposition of the public domain. I am just in receipt from the Secretary of the Interior of recommendation that in disposition of important legal questions which he is called upon to decide relating to the public lands, an appeal be authorized from his decision to the court of appeals for the District of Columbia.

I fully indorse the views of the Secretary in this particular, which are set forth in his letter, transmitted herewith, and urge upon the Congress an early consideration of the subject.

WM. H. TAFT.

THE WHITE HOUSE, *June 21, 1910.*

In harmony with the suggestion contained in the message of the President, I introduced on June 22 a bill providing for appeals from the decisions of the Secretary of the Interior to the court of appeals of the District of Columbia, and for other purposes.

That bill was reported on June 22 last, and has since been on the calendar. It has been my hope that an opportunity would be offered for the consideration of that legislation by the House. A week ago to-day, when the bill now before the House was under consideration, the gentleman from Illinois [Mr. MANN] offered my appeals bill as reported by the committee as an amendment to the pending bill, substituting for the court of appeals of the District of Columbia the Court of Claims, amending it in that way, as I understand it, in order to make it germane to the bill at the point where offered.

Personally I should like very much to have the House pass upon the question involved in this legislation, but I feel it would be utterly impossible to secure a fair consideration of the measure on its merits at this time, and as an amendment to this bill, and for two reasons: First, because of the very reasonable and proper disinclination of the committee having this bill in charge to agree to or approve any new legislation as an amendment; and, second, because in order to make the bill germane at the point where offered, it was necessary to substitute for the court of appeals of the District of Columbia the Court of Claims, a court which, in my opinion, ought not to be given jurisdiction of these cases if we are to provide for appeals.

Therefore, in view of the fact that it would be impossible to secure fair and reasonable consideration of the measure on its merits under the circumstances, I hope that the gentleman from Illinois will withdraw his amendment.

The SPEAKER pro tempore. Of course discussion is pending on the point of order offered.

Mr. MANN. Mr. Speaker, it is very likely that a full discussion of this subject would take considerable time, and if it did take considerable time, of course, it would probably mean the absolute defeat of the passage of this bill at this session of Congress, and therefore would accomplish no good. It might accomplish considerable harm unless the bill itself when passed will be of great good, about which I have some doubt.

Mr. NORRIS. Does the gentleman refer to the Moon bill or the Mondell bill?

Mr. MANN. I have great doubts about the Mondell bill. In fact, I think it is not a good bill. I have considerable doubt about the Moon bill that is pending. I have no desire to occupy all the time of the House in discussing one bill to prevent the other bill passing. Therefore I withdraw the amendment.

Mr. MARTIN of South Dakota. The gentleman does not want to be understood as introducing an amendment with no expectation that it will pass, I hope.

Mr. HITCHCOCK. I raise a point of order. How can the gentleman from Illinois, Mr. Speaker, withdraw his amendment without unanimous consent?

Mr. MANN. I am perfectly willing to argue that point of order.

The SPEAKER pro tempore. The Chair will hear the gentleman from Nebraska [Mr. HITCHCOCK] on the point of order.

Mr. HITCHCOCK. The amendment is before the House, and can not be withdrawn without the unanimous consent of the House.

Mr. MANN. The rule is that the amendment can not be withdrawn without unanimous consent. That is the special rule that was adopted many years ago at the time Congress was in a dispute about the extension of slavery. But that rule does not apply to motions or amendments in the House. I quote from page 380 of the Manual, paragraph 671, as follows:

> A motion may be withdrawn, although an amendment may have been offered and be pending; and in the House an amendment, whether simple or in the nature of a substitute, may be withdrawn at any time before amendment or decision is had thereon; but the rule is otherwise in Committee of the Whole.

There is a lot of authorities on that. That is the common practice in the House. There have been several amendments already withdrawn to-day.

Mr. HITCHCOCK. That was by unanimous consent.

Mr. MANN. I beg the gentleman's pardon; it was not by unanimous consent.

Mr. HITCHCOCK. There was an announcement made that there was a certain amendment withdrawn by unanimous consent, and there was no objection.

Mr. MANN. The gentleman is mistaken.

Mr. HITCHCOCK. Perhaps this can be expedited. Instead of making the point of order, I will reserve it for the purpose of asking this question: I would like to ask the gentleman from Wyoming [Mr. MONDELL] whether he intends at a future time during this session to press his proposition, or some proposition, to remove these land cases to a court. Now, if he does intend to do so, I say now is the time to start the discussion. If he does not propose to do so, I have no desire to make any obstruction.

Mr. MONDELL. Mr. Speaker, it seems to me that I am not called upon to enlighten the gentleman from Nebraska, although wishing to be entirely courteous to him, as to what I may desire to do in regard to legislation. I believe the bill which I have introduced is very good legislation, and if an opportunity could be given for a free and full discussion of it, and an opportunity to amend it, I should be very glad to have that done. I do not desire to have it brought into the House at any time except with opportunity for full discussion and amendment; and, as we are nearing the end of the session, I am rather inclined to the opinion that no such opportunity will be given. But I still believe the legislation to be good.

Mr. HITCHCOCK. I must confess that I was afraid it would be rushed through here without any discussion.

Mr. MONDELL. I wish to say to the gentleman that, so far as I am concerned, I do not wish to have it brought into the House without opportunity for amendment, nor would I favor it being brought into the House without opportunity for full discussion also.

Mr. JAMES. Will the gentleman permit me?

Mr. MONDELL. Certainly.

Mr. JAMES. Would the bill the gentleman has introduced as an amendment include or exclude the Cunningham claims?

Mr. MONDELL. The bill before the committee is a general bill that would allow an appeal on any decision of the Secretary of the Interior of any sort.

Mr. MANN. And would therefore include the Cunningham claims?

Mr. MONDELL. It would include any case that might be decided by the Secretary of the Interior.

Mr. JAMES. The gentleman is aware that the President has the Cunningham claims under consideration; that they have been briefed, and he is studying them. Would the gentleman take them away and lodge them in the district court?

Mr. MONDELL. The bill now offered as an amendment, which the gentleman from Illinois desires to withdraw, is a general bill providing for the appeal of claims from final decision of the Secretary of the Interior and would include any case where a final decision had been rendered, and therefore would not take the Cunningham or any other claims which have not been decided from the Secretary or the President.

Mr. JAMES. The gentleman from New York [Mr. PARSONS] says that such a bill or such an amendment as has been introduced would not take the Cunningham claim from the President.

Mr. MONDELL. It would not take any claims from the department, but it would allow a review of all decisions of the department after decision had been rendered.

Mr. PARSONS. If the gentleman will allow me, I want to say it would also allow the department, with the consent of the Attorney General, to certify questions of law to the circuit court of appeals, but they could not pass up the record and have questions of fact decided, and so be relieved of the decision of questions of fact.

Mr. MANN. Well, that depends on what the bill was.

Mr. PARSONS. I am talking about the bill before the Committe on Public Lands.

Mr. MANN. Mr. Speaker, if gentlemen will pardon me a word in reference to this matter. I introduced this amendment. I had made up my mind that the bill ought not to pass. I thought that possibly it might be disclosed, in a very short discussion in the House, that the bill could not pass as an amendment and that would end that question. I think the introduction of the amendment has disclosed the fact that it would not be agreed to even if the court of appeals was inserted instead of the Court of Claims.

Mr. JAMES. Was the fact that the gentleman from Illinois was opposed to the amendment and wanted it defeated the reason why he introduced it in the House?

Mr. MANN. That is absolutely the reason, and it has had the desired effect.

The SPEAKER pro tempore. The Chair is ready to rule. The gentleman from Illinois [Mr. MANN] offered an amendment and now proposes to withdraw it. The gentleman from Nebraska [Mr. HITCHCOCK] makes the point of order that it can not be withdrawn except by unanimous consent.

In the Committee of the Whole that is the rule. In the House it is otherwise. An amendment can be withdrawn in the House by the Member offering it before action has been had thereon. We are proceeding in the House as in Committee of the Whole, and the gentleman from Nebraska probably based his point of order on that proposition.

The Chair finds that this very question was before the House March 3, 1898, when Mr. Griggs, of Georgia, having offered an amendment desired to withdraw it. The point of order was made that it could not be withdrawn except by unanimous consent. The Speaker said:

> The Chair finds the matter in this rather curious position, that the House is considering the bill in the House as in Committee of the Whole. In the House the amendment can be withdrawn and in the Committee of the Whole it can not.

The then Speaker decided that a Member offering an amendment could withdraw it without asking unanimous consent. That decision is found in the fourth volume of Hinds' Precedents thus stated:

> During the consideration of a bill in the House as in Committee of the Whole an amendment may be withdrawn at any time before action has been had on it.

That ruling was by Speaker Reed. Following that ruling, the Chair overrules the point of order. The amendment is withdrawn. We now recur to section 166, which was pending.

Mr. BUTLER. Mr. Speaker, I rise to offer an amendment to section 166.

The SPEAKER pro tempore. Does the gentleman from Georgia offer an amendment to section 166?

Mr. BARTLETT of Georgia. I yield to the gentleman from Pennsylvania, and will offer mine after his.

Mr. BUTLER. Mr. Speaker, this section involves the conduct of men, and I desire to strike from the section certain language which, in my judgment and within my knowledge and

within my observation and experience, is offensive to many men.

The SPEAKER pro tempore. Will the gentleman state his amendment?

Mr. BUTLER. My amendment is to the last part of section 166, and it begins at the semicolon. I move to strike out this language:

And the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Page 143, after the word "rebellion," in line 17, strike out all of the remainder of section 166.

Mr. BUTLER. I have not observed the studious care most gentlemen do when making such motions, for the very reason I have not the hope of success which usually attends such efforts, but I desire to relieve myself of a sentimental feeling that deeply affects me when I move to strike this language from the bill. It is unimportant to the Members of this House and the history of the Nation where I came from, but nevertheless I was born north of Mason and Dixon's line, in a country where most men were loyal to the Union during the Civil War, and where we have ceased to call the war a "rebellion." [Applause.] However, if I had been engaged therein as a Confederate, I would not have been offended at having the conflict called a rebellion. I belong to a race of people that never rebelled upon any occasion. They never joined an insurrection, neither did they deny the authority of their masters, revile their judges, or curse the rulers of their people. If they had been in rebellion they would not, I am sure, have been offended at the designation. This language should be offensive to them—Mr. Speaker, I refer to the class of people with whom you are well acquainted, such as the Dunkards, the Mennonites, and the Quakers, of Pennsylvania. These people, during the Civil War, lived in peace along in the valleys of York and Adams and Franklin Counties. Many of them did not esteem it necessary to bear arms in defense of our Union to manifest their allegiance to it; neither did they regard a noise as an evidence of their loyalty; neither did they deem it necessary, in order to preserve their constancy to their Government that they should commit acts of hostility. We all know that at a certain period of the Civil War Gen. Lee and Gen. Gordon did hold sway in the State of Pennsylvania. We all know that it is in history that at a certain time the Confederates appeared before Chambersburg, and there held dominion.

It is further known that for two days and a half, and for nearly three days, Gen. Lee held dominion or "sway," in the language of this bill, at Gettysburg, and it is further known that at another period slightly anterior to this Gen. Gordon did reach a point in Pennsylvania known as Wrightsville; whether or not he held sway, dominion, or control over the section traveled I do not know, and for the purposes of this statement it is unnecessary to know.

This section of the bill, Mr. Speaker, is complete and without this language answers all purposes designed. It must be offensive to the sense of many of the people for whom I speak—to me it is unbearable—that it should be thought of them, because they were unfortunate enough to live, unfortunate enough to dwell, voluntarily in the slaughter pens of the war, with their property at the will of the chief, that they should be charged with disloyalty toward a Union that they had maintained ever since their forefathers set it up.

Mr. Speaker, there is no necessity for this language which I move to strike out. I repeat what I said at the beginning. I have no hope that it will be stricken out. I will not be particularly sensitive about it if it remains in the bill. Mr. Speaker, I have had the opportunity of speaking for the people I have in my mind at this time and did have when I made the motion. They are a class of people who do not believe in the philosophy of the Vikings, that it was necessary to be wounded to be happy. I speak for that class of people who lived quietly and humbly in the shadow of their own trees, not listening to the instructions of false moralists who talk like angels, but who live like men. With great feeling I speak to this House, to its membership, this one sentence that is in my mind, that these people cared more to live with their faces turned toward the glories of heaven than to join in the demonstrations of hell.

I ask the membership of this House to consider whether it is necessary to any longer keep that language in this bill. [Applause.]

Mr. MOON of Pennsylvania. Mr. Speaker, my friend from Pennsylvania, my colleague [Mr. BUTLER], gives as the only reason why this language should be stricken from this section of the bill that it is obnoxious to the Society of Friends, to which he belongs.

Mr. BUTLER. If the gentleman will here excuse me; I hate to make the humiliating confession that I do not belong to the society. I only wish I did. [Applause.]

Mr. MOON of Pennsylvania. That statement seems to meet with applause in the House. I was about to state——

Mr. BUTLER. It is the credit of the good old Quakers they applaud.

Mr. MOON of Pennsylvania. I was about to state to the gentleman that I had about the same associations as he. I also come from the Society or Association of Friends. I call attention to the fact that this is only a war measure, only a rule of evidence. This only applies when men go into court. Now, the gentleman knows that members of the society to which he and I belong never go into court; that when they smite us on our right cheek we turn the left cheek also.

Mr. BUTLER. Then what? [Laughter.] Then the other fellow usually gets a licking. [Laughter.]

Mr. MOON of Pennsylvania. Then we are through with meekness. I must say to the gentleman that I am opposing his amendment because the section provides a law of evidence with respect to a very important class of claims. Do not let us forget, gentlemen, that we are dealing here with the Court of Claims. Do not forget what I stated on more than one occasion, that the establishment of the Court of Claims and the giving to the citizens of the United States the right to an action in that court is an act of pure beneficence on the part of the Government.

Now, this relates to war claims, and it was in 1868 that this provision was put in the law. During all these years—42 years—that provision has been in operation, and I have never yet heard of any hardships that have occurred under it or any difficulty about proving where the rebel forces held sway. Nobody ever attempted to say that they held sway in Adams and York Counties, in the State of Pennsylvania.

Mr. BARTLETT of Georgia. Mr. Speaker, the gentleman said that in all trial cases this had never worked any hardship. The gentleman, I know, is a great student, but he had probably forgotten a decision of the Court of Claims, which I thought was upon my desk——

Mr. MOON of Pennsylvania. The gentleman misunderstood me——

Mr. BARTLETT of Georgia. Where the Court of Claims has construed this very section. The fact that even where no act of disloyalty to the Union was shown other than the fact that the person remained in one of the seceding States and did not go away, though he was not shown to have done any acts of disloyalty—that fact as to his residence puts upon him and those who represent him the difficulty of showing he was loyal. The fact that he resided in any one of the localities described in this section prevents him from recovering, even when no act of disloyalty on his part is shown.

Mr. MOON of Pennsylvania. But the gentleman is aware of the fact that this says it shall be prima facie evidence only, and he could not convince this House that any man who was entitled, by reason of a loss, could not go upon the stand and testify and overcome the prima facie presumption that he had not committed an overt act.

Mr. BARTLETT of Georgia. The hardship arises by reason of the fact that a number of claimants I have referred to have passed away. The parties being dead, it was impossible to say anything other than that they resided in the section designated by this provision, and that was all the proof they had. I am sorry I do not have that decision in hand here.

Mr. BUTLER. Mr. Speaker, will the gentleman from Pennsylvania permit me to ask him a question?

The SPEAKER pro tempore. Will the gentleman from Pennsylvania [Mr. MOON] permit his colleague to ask him a question?

Mr. MOON of Pennsylvania. Yes; certainly.

Mr. BUTLER. Beginning at the one hundred and sixty-sixth section, down to the point where I moved to strike out the language spoken of, is not that section of the bill complete without this language? Is it not plain from this language that any suitor is compelled or may be compelled to prove his loyalty?

Let me ask my friend, with whom I have never had a dispute and with whom I never will, Is not his section complete without the language to which I object, and is it not within the power of anyone making the complaint to compel the suitor to prove his loyalty?

Mr. MOON of Pennsylvania. Unquestionably this is true, and this is only introducing a certain rule of evidence which says that certain facts existing shall be prima facie evidence which can easily be overcome. Now, the claims arising under

this section, which was put in in 1868, are gradually diminishing. They are becoming fewer and fewer every year, and I do not believe that the great and honorable Society of Friends, to which my friend and I belong, will suffer any imputation or injury. I do not think they would dream of it if this bill had not come upon the floor. I doubt if any one of them except my friend from Pennsylvania ever dreamed of it or thought that they would be hurt by it. I therefore ask the House to vote down the amendment.

Mr. MARTIN of South Dakota. I ask that the gentleman from Pennsylvania [Mr. MOON] have one minute more.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. MARTIN of South Dakota. In the judgment of the gentleman from Pennsylvania, does this language, "held sway," cover the case of a temporary control over a section like that covered by the contending armies at Gettysburg, where the Confederate forces held sway for two or three days?

Mr. MOON of Pennsylvania. I do not intend to construe what it means at all. It has been construed, perhaps, a hundred times, and the Court of Claims has decided. I do not know what it is.

Mr. MARTIN of South Dakota. If that is what it means, it seems to be an unjust division.

Mr. KENDALL. It is not a very vital inquiry, is it?

Mr. MOON of Pennsylvania. No; if it has not been adjudicated. The responsibility is not upon me. I am frank to say I do not know what the courts have held about it.

Mr. JAMES. Mr. Speaker, I arise for the purpose of supporting the amendment offered by the gentleman from Pennsylvania [Mr. BUTLER]. The language of this section is as follows:

SEC. 166. Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

It seems to me, Mr. Speaker, that the amendment of the gentleman from Pennsylvania striking out the latter part of this section ought to be adopted. The part referred to reads as follows:

And the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

The first part of this section requires three things to be proved by every person who had property taken or destroyed by Union forces during the Civil War: First, he must show that he was loyal to the Union; second, he must show that he did not give aid to the Confederacy; and, third, that he did not give comfort to them. But the latter part of the section creates a prima facie case against every claimant simply because he had residence in some place where, at "some time the forces of the Confederacy held sway." Take my State of Kentucky, a border State, one which refused to go out of the Union, and the Confederate forces and the Union forces alternated in control of the different parts of the State; or, as the section says, held sway at different times. And yet this section would require a person who lived in these localities to go in before the Court of Claims with a prima facie case against him, simply because he had the courage to remain within the lines and held his residence where the forces of the Confederacy held sway.

The forces of the Confederacy held sway in Indiana for a time, held sway in Pennsylvania for a time, held sway in Kentucky for a time, and yet you would by this section discriminate against these people who had their property and their all swept from them, who supplied the Federal forces with provisions and supplies, whose churches were destroyed, whose schoolhouses were torn down, whose homes were desolated, simply because they lived where they were born and from which places they refused to flee because the Confederacy held sway. Many soldiers went from Kentucky and other border States to fight for the Union. They left behind them families they loved, property they owned, and yet this brutal section would raise against these people a prima facie case of disloyalty when they come to atempt to collect from the Government [applause], which ought to be not only just but even generous to them. My father was a Union soldier; my mother's people were upon the Confederate side. I believe I can view the case dispassionately and fairly. Mr. Speaker, the war is over. This part of the section which the gentleman from Pennsylvania moves to strike out could not have found favor in any legislative body in the world except one permeated with passion. [Applause]. Almost half a century removes us from that dread internecine conflict. We do not recall it now, except to tell of the courage of two of the mightiest armies that ever went upon a field of carnage, one fighting for the Constitution as they had had it taught to them, the other fighting for what they believed to be right, both equally honest, equally sincere; but it is past—it is behind us. [Applause.]

The spirit of Lincoln and of Davis, of Lee and of Grant, of Stonewall Jackson and Winfield Scott Hancock, of Joseph Johnston and George B. McClellan looks down upon a reunited country from the parapet of the skies, seeing a contented and happy people, with all malice destroyed by the hand of time, with all feeling of bitterness forgotten, with the Stars and Stripes floating above a people loved by everyone [applause]; and, sir, I believe I speak the truth when I say that if Abraham Lincoln were alive this night there is not a foot of southern soil under Dixie's skies upon which he might not pitch his tent and pillow his head upon the knee of a Confederate soldier and sleep, and sleep in safety there. [Applause.] I sincerely trust this amendment will be adopted.

It should be adopted; this section should be stricken from our law; these people, whose property was taken, used, or destroyed, should be remunerated by the Government. Our Republic is too great and good to do wrong, is too generous to refuse payment of the claims of those to whom it is indebted. [Loud applause.]

Mr. MANN. Mr. Speaker, I do not think the provision in the bill, which has been in the law for many years, applies to the case stated by the gentleman from Kentucky. It applies to those cases where the government was on the Confederate side, and there ought to be a presumption that in such cases people remaining within the confines of that government were in hostility to the Federal Government. There ought to be that presumption. It is only a presumption. If you remove this provision from the bill and from the law, it is an assertion on the part of Congress that people living in those portions of the country distinctly in rebellion, distinctly under the Confederate control, are not to be considered as prima facie in hostility to the Federal Government.

Doubtless that would have been the rule at law without this provision being in the statute; but having been in the statute for years, to take it out is to remove that presumption in the minds of the Court of Claims. Why should a man remaining in New Orleans or Chattanooga or other portions of the South voluntarily, while those portions of the South were under Confederate control—why should it not be a presumption that he was in sympathy with the people with whom he was remaining?

I know the situation in Kentucky. All of my family came from Kentucky. Some of them who remained in Kentucky were on the Confederate side and some on the Federal side. As I understand the situation the gentleman from Kentucky alludes to it may be in some cases a hardship to some of them, although Kentucky did not go out of the Union, but this bill has never been construed to mean, and could not be construed to mean, "the sway for an hour."

Mr. JAMES. But it says wherever the Confederate forces or organizations held sway; it does not say that wherever a State seceded, but it says at "any time when Confederate forces held sway," no matter how brief the time—"any time" is the wording.

Mr. MANN. I understand what it says. It is perfectly plain what it means, and no one will, in my judgment, fairly construe it to mean—no court of law would construe it to mean—as the gentleman from Kentucky suggests. Nor has that been the construction that the Court of Claims has ever put upon it.

Now, what is the fact in reference to it? These claims, as a rule, arise from supplies which were taken by the Federal Army. It has already been held that as to organizations, societies, and corporations there can be no presumption of disloyalty, because, in the opinion of the court, they were not individuals and could not have any loyalty or disloyalty. I am not in favor of this Congress undertaking now, unless it knows what it is doing and does it deliberately, to attempt to pay back to the people all their losses for property seized or destroyed in the Civil War. Unless they can prove loyalty they ought not to expect to be paid. It is impossible for the Government to prove disloyalty in these cases; it must depend on the people to prove loyalty. I think no one has yet proposed—although the time may come when we will pay the people their losses regardless of whether they were loyal or disloyal to the Federal Government, or loyal or disloyal to the Confederate government—but I think the time has not yet arrived when Congress desires to do that.

Mr. JAMES. I desire to ask the gentleman, if his construction is correct, to which I do not agree, that this section applies only to those States that seceded from the Union, if the converse to that proposition is not true, that wherever claimants, say in my district of Kentucky, lost property the presumption would be that they were loyal to the Government because Kentucky remained in the Union——

Mr. MANN. Oh, no; there are many cases where States had seceded from the Union where the Union Army was in possession. There was no presumption of disloyalty. I say that this section was never intended to mean, and never has been construed to mean, what the gentleman from Kentucky suggests. I think with him that such a construction would be abhorrent, and I do not think that we ought to undertake at this time to change that rule of evidence.

Mr. GRAHAM of Illinois. Will my colleague yield for a question?

Mr. MANN. Certainly.

Mr. GRAHAM of Illinois. Is not every idea expressed in the last five lines of the section included in what precedes it? In the first lines of the section it specifically provides:

> Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States and did give no aid or comfort to persons engaged in said rebellion; and the voluntary residence of any such person in any place where, at any time during such residence, the rebel force or organization held sway, shall be prima facie evidence that such person did give aid and comfort to said rebellion and to the persons engaged therein.

That language clearly imposes upon the claimant the burden of proving his loyalty.

That being so, why is it necessary to go on and, as the gentleman from Pennsylvania well stated, add additional language which is offensive and unnecessary?

Mr. MANN. I do not see anything offensive about it.

Mr. GRAHAM of Illinois. It does not make the burden of proof any greater than the language which precedes it makes that burden.

Mr. MANN. I can see nothing offensive in the language, and I quite agree with my colleague from Illinois that if this were an original proposition I would not repeat what is apparently the same thing twice.

Mr. GRAHAM of Illinois. It is stronger in the first than in the second statement of it.

Mr. MANN. But having been in the law for 40 years the court must construe striking it out as meaning something. If it is the same that is already there it does no good to strike it out. If it is different, as the court must hold, if we strike it out, it means that the court must construe that we have made a substantive change in the law, which, according to the gentleman's own suggestion, we do not desire to do.

Mr. GRAHAM of Illinois. Upon that point the court would have the right to go to the record of the proceedings in this House to ascertain as well as it could what views were expressed in the debate as to what the intention of the body was.

Mr. MANN. Well, I do not think so.

Mr. GRAHAM of Illinois. And the discussion here will show very clearly to the court that the striking of it out was not intended to remove the burden from the claimant.

Mr. MANN. I think, on the contrary, the court would find that it was the intention to remove the burden from the claimants, even from the discussion which has taken place here.

Mr. GRAHAM of Illinois. Oh, no; so far as the House can have intention, or the Members of it can form intentions, the discussion is the other way. Mr. Speaker, permit me to again call attention to the absolutely unnecessary character of the language proposed to be stricken out. The more one reads what precedes it the clearer it appears that the language it is moved to strike out is merely surplusage, and without necessity there at all. Reading the whole section preceding that makes it very plain:

> Whenever it is material in any claim to ascertain whether any person did or did not give any aid or comfort to the late rebellion, the claimant asserting the loyalty of any such person to the United States during such rebellion shall be required to prove affirmatively that such person did, during said rebellion, consistently adhere to the United States and did give no aid or comfort to persons engaged in said rebellion.

Now, there is a condition precedent. There could be no recovery on such a claim until the claimant affirmatively proved loyalty to the United States Government. Nothing could be stronger than that. That is much plainer than the lines which follow it, stating, as the gentleman from Pennsylvania said, only a rule of evidence. In the language I read it requires satisfactory evidence, not mere prima facie proof, but satisfactory proof, that the claimant was always loyal to the United States Government, and the striking out of what follows, in view of what still remains, could not be construed by any court anywhere at any time as intending on the part of Congress to change the law, to change the requirements as they existed heretofore, for the language would still remain that the claimant must affirmatively prove those very things.

Mr. KENDALL. If it is not the purpose to change the rule of law, what is the purpose of it?

Mr. GRAHAM of Illinois. The purpose of the amendment of the gentleman from Pennsylvania? He stated it quite clearly, and if the gentleman from Iowa was here when he made his statement he must have understood it.

Mr. KENDALL. I understood the gentleman to bottom his demand for the amendment upon the theory that some language offensive to him and his people in the statute ought to be removed, but if the effect of this amendment will not be to serve notice on the Court of Claims that it desires the adoption of a different rule than the one which now prevails, I submit to the gentleman, What will be the effect of the amendment?

Mr. GRAHAM of Illinois. The effect of the amendment will be to remove the offensive language and in no way change the rule.

Mr. BUTLER. I would not vote to change the rule. I believe any man who claims to have a right given him during the Civil War as against this Government should prove his loyalty, and I would not ask to change that rule.

Mr. GRAHAM of Illinois. Regardless of what the gentleman would or would not do, the language remains that the claimant must prove affirmatively that such persons did consistently adhere to the United States and did not give aid or comfort to the rebellion.

That language remains in it, and while it remains in it the striking out of the lesser provision can not change the effect of the greater which yet remains.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired. The question is on the amendment offered by the gentleman from Pennsylvania.

The question was taken, and the Chair announced the ayes appeared to have it.

Mr. MANN. Mr. Speaker, I make the point that there is no quorum present.

The SPEAKER pro tempore. The gentleman from Illinois makes the point that there is no quorum present. The Chair will count. [After counting.] One hundred and sixteen gentlemen are present—not a quorum. The question is on the amendment offered by the gentleman from Pennsylvania. The doors will be closed, the Sergeant at Arms will bring in absent Members, the Clerk will call the roll, and those who are in favor of the amendment will answer "aye," and those who are opposed will answer "no."

The question was taken; and there were—yeas 166, nays 75, answered "present" 6, not voting 137, as follows:

YEAS—166.

Adair	Cullop	Hull, Tenn.	Randell, Tex.
Adamson	Davis	Humphreys, Miss.	Ransdell, La.
Aiken	Dent	James	Rauch
Alexander, Mo.	Denver	Johnson, Ky.	Richardson
Allen	Dickinson	Johnson, S. C.	Roberts
Anderson	Dickson, Miss.	Jones	Robinson
Ansberry	Dies	Keliher	Roddenbery
Ashbrook	Dixon, Ind.	Kinkead, N. J.	Rothermel
Austin	Driscoll, D. A.	Kitchin	Sabath
Barclay	Dupre	Korbly	Saunders
Barnhart	Edwards, Ga.	Langley	Shackleford
Bartlett, Ga.	Ellerbe	Latta	Sheppard
Beall, Tex.	Ferris	Lee	Sherwood
Bell, Ga.	Finley	Lever	Sims
Bennet, N. Y.	Fitzgerald	Lively	Sisson
Booher	Flood, Va.	Lloyd	Slayden
Borland	Floyd, Ark.	Loudenslager	Slemp
Bowers	Foelker	McDermott	Small
Brantley	Foster, Ill.	McGuire, Okla.	Smith, Tex.
Broussard	Foster, Vt.	McHenry	Sparkman
Burgess	Gallagher	Macon	Spight
Burleson	Garner, Tex.	Maguire, Nebr.	Stanley
Burnett	Garrett	Martin, Colo.	Steenerson
Butler	Gill, Mo.	Martin, S. Dak.	Stephens, Tex.
Byrd	Glass	Massey	Sulzer
Byrns	Godwin	Mays	Taylor, Ala.
Candler	Gordon	Mitchell	Thistlewood
Carlin	Graham, Ill.	Moon, Tenn.	Thomas, Ky.
Carter	Gregg	Morgan, Okla.	Thomas, N. C.
Cary	Griest	Morrison	Tou Velle
Clark, Fla.	Guernsey	Moss	Turnbull
Clayton	Hammond	Nicholls	Underwood
Cline	Hardy	Nye	Wanger
Cocks, N. Y.	Harrison	O'Connell	Watkins
Collier	Hay	Olcott	Webb
Covington	Heflin	Oldfield	Weisse
Cowles	Helm	Olmsted	Wheeler
Cox, Ind.	Henry, Tex.	Page	Wickliffe
Cox, Ohio	Houston	Palmer, A. M.	Wilson, Pa.
Craig	Hubbard, W. Va.	Peters	Woods, Iowa
Cravens	Hughes, Ga.	Poindexter	
Crumpacker	Hughes, N. J.	Rainey	

NAYS—75.

Ames	Gillett	Küstermann	Plumley
Calder	Good	Lawrence	Pratt
Cassidy	Graham, Pa.	Lenroot	Prince
Chapman	Greene	Lindbergh	Scott
Cooper, Wis.	Hamer	Longworth	Sheffield
Currier	Hamilton	McKinley, Ill.	Smith, Iowa
Davidson	Hanna	Madison	Snapp
Dawson	Haugen	Malby	Stafford
Draper	Hayes	Mann	Sterling
Driscoll, M. E.	Henry, Conn.	Miller, Kans.	Sulloway
Dwight	Higgins	Miller, Minn.	Swasey
Ellis	Hill	Moon, Pa.	Taylor, Ohio
Fish	Howell, N. J.	Morse	Tilson
Focht	Howland	Moxley	Townsend
Fordney	Hubbard, Iowa	Murphy	Volstead
Foss	Kendall	Nelson	Wiley
Fuller	Kennedy, Iowa	Norris	Wilson, Ill.
Gardner, Mass.	Kennedy, Ohio	Parsons	Young, Mich.
Gardner, N. J.	Kopp	Pearre	

ANSWERED "PRESENT"—6.

Fairchild	Goulden	McMorran	Young, N. Y.
Goldfogle	Howell, Utah		

NOT VOTING—137.

Alexander, N. Y.	Englebright	Knapp	Payne
Andrus	Esch	Knowland	Pickett
Anthony	Estopinal	Kronmiller	Pou
Barchfeld	Fassett	Lafean	Pray
Barnard	Fornes	Lamb	Pujo
Bartholdt	Fowler	Langham	Reeder
Bartlett, Nev.	Gaines	Law	Reid
Bates	Gardner, Mich.	Legare	Rhinock
Bennett, Ky.	Garner, Pa.	Lindsay	Riordan
Bingham	Gill, Md.	Livingston	Rodenberg
Boehne	Gillespie	Loud	Rucker, Colo.
Boutell	Goebel	Lowden	Rucker, Mo.
Bradley	Graff	Lundin	Sharp
Burke, Pa.	Grant	McCall	Sherley
Burke, S. Dak.	Hamill	McCreary	Simmons
Burleigh	Hamlin	McCredie	Smith, Cal.
Calderhead	Hardwick	McKinlay, Cal.	Smith, Mich.
Campbell	Havens	McKinney	Southwick
Cantrill	Hawley	McLachlan, Cal.	Sperry
Capron	Heald	McLaughlin, Mich.	Stevens, Minn.
Clark, Mo.	Hinshaw	Madden	Sturgiss
Cole	Hitchcock	Maynard	Talbott
Conry	Hobson	Millington	Tawney
Cooper, Pa.	Hollingsworth	Mondell	Taylor, Colo.
Coudrey	Howard	Moore, Pa.	Thomas, Ohio
Creager	Huff	Moore, Tex.	Vreeland
Crow	Hughes, W. Va.	Morehead	Wallace
Dalzell	Hull, Iowa	Morgan, Mo.	Washburn
Denby	Humphrey, Wash.	Mudd	Weeks
Diekema	Jamieson	Murdock	Willett
Dodds	Johnson, Ohio	Needham	Wood, N. J.
Douglas	Joyce	Padgett	Woodyard
Durey	Kahn	Palmer, H. W.	
Edwards, Ky.	Keifer	Parker	
Elvins	Kinkaid, Nebr.	Patterson	

So the amendment was agreed to.

The Clerk announced the following additional pairs:

For the session:

Mr. ANDRUS with Mr. RIORDAN.

Mr. BRADLEY with Mr. GOULDEN.

Mr. YOUNG of New York with Mr. FORNES.

Until further notice:

Mr. PICKETT with Mr. WALLACE.

Mr. LOUD with Mr. LAMB.

Mr. BINGHAM with Mr. TALBOTT.

Mr. TAWNEY with Mr. PADGETT.

Mr. MCKINNEY with Mr. GOLDFOGLE.

Mr. SMITH of Michigan with Mr. LEGARE.

Mr. JOHNSON of Ohio with Mr. GILLESPIE.

Mr. MOREHEAD with Mr. POU.

Mr. WOOD of New Jersey with Mr. SHERLEY.

Mr. MURDOCK with Mr. CONRY.

Mr. DOUGLAS with Mr. GILL of Maryland.

Mr. DALZELL with Mr. CLARK of Missouri.

Mr. HAWLEY with Mr. CANTRILL.

Mr. WOODYARD with Mr. HARDWICK.

Mr. ALEXANDER of New York with Mr. WILLETT.

Mr. BURKE of Pennsylvania with Mr. TAYLOR of Colorado.

Mr. BURLEIGH with Mr. ESTOPINAL.

Mr. CAPRON with Mr. HAMILL.

Mr. HEALD with Mr. HAVENS.

Mr. KAHN with Mr. HITCHCOCK.

Mr. KNOWLAND with Mr. HOWARD.

Mr. KNAPP with Mr. JAMIESON.

Mr. KRONMILLER with Mr. LINDSAY.

Mr. DENBY with Mr. HAMLIN.

Mr. LAFEAN with Mr. LIVINGSTON.

Mr. MCCREARY with Mr. PATTERSON.

Mr. LUNDIN with Mr. MOORE of Texas.

Mr. MILLINGTON with Mr. REID.

Mr. MOORE of Pennsylvania with Mr. RHINOCK.

Mr. PRAY with Mr. RUCKER of Colorado.

Mr. RODENBERG with Mr. RUCKER of Missouri.

Mr. PAYNE with Mr. SHARP.

Until Thursday noon:

Mr. ENGLEBRIGHT with Mr. BARTLETT of Nevada.

From February 2 to February 8, inclusive:

Mr. HUGHES of West Virginia with Mr. BOEHNE.

From February 8 to February 9, noon:

Mr. FAIRCHILD with Mr. HOBSON.

Mr. BURKE of South Dakota (in favor) with Mr. MCLACHLAN of California (against).

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. A quorum is present; the amendment is agreed to, and the doors will be opened.

Mr. CLARK of Florida. Mr. Speaker, I desire to offer an amendment to the section.

The SPEAKER pro tempore. The gentleman from Florida offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 143, section 166, in lines 12, 13, and 15, strike out the word "rebellion" and insert in lieu thereof the words "Civil War."

Mr. MOON of Pennsylvania. Mr. Speaker, I shall make no objection to that amendment.

Mr. BARTLETT of Georgia. Mr. Speaker, I suggest the words "Civil War" will not actually cover the purpose that my friend from Florida has in view. I suggest the language:

The forces or government of the late seceding States during the Civil War.

Mr. CLARK of Florida. I will accept that.

Mr. MOON of Pennsylvania. I would suggest to the gentleman from Florida that he add that.

Mr. BARTLETT of Georgia. I offer, Mr. Speaker, as a substitute the amendment which I send to the Clerk's desk.

The SPEAKER pro tempore. The gentleman from Georgia [Mr. BARTLETT] offers a substitute amendment, which the Clerk will read.

The Clerk read as follows:

Strike out "late rebellion," in line 12, page 143, and insert:
"The forces or government of the late seceding States during the Civil War."

Mr. BARTLETT of Georgia. Will the gentleman from Florida [Mr. CLARK] permit me to say that the amendment I sent to the Clerk's desk covers all these words?

Mr. CLARK of Florida. Let me suggest that the gentleman from Georgia [Mr. BARTLETT] offer his entire amendment as a substitute for mine.

Mr. BARTLETT of Georgia. Then, Mr. Speaker, with my friend's consent, I offer the substitute, which I have sent to the Clerk's desk, for his amendment.

Mr. CLARK of Florida. I accept it, Mr. Speaker.

Mr. MOON of Pennsylvania. Mr. Speaker, I ask that the amendment be now reported.

Mr. BARTLETT of Georgia. That covers the whole of it. I offer that as a substitute for the amendment offered by the gentleman from Florida. I would ask that the Clerk read it all.

Mr. MANN. Let us have the amendment reported, so that we can tell.

The SPEAKER pro tempore. The Chair understands the gentleman from Florida withdraws his amendment?

Mr. CLARK of Florida. Yes, sir.

The SPEAKER pro tempore. Now, the gentleman from Georgia [Mr. BARTLETT] offers an amendment, which the Clerk will report.

The Clerk read as follows:

Strike out "late rebellion," in line 12, page 143, and insert:
"The forces or government of the late seceding States during the Civil War."

Mr. MANN. Mr. Speaker, does not the gentleman think he is going a little far? We accepted an amendment the other day providing for defining the War of the Rebellion as the "Civil War." Now, the gentleman proposes to have Congress declare that they were seceding States. The Supreme Court of the United States has declared there were no seceding States.

Mr. BARTLETT of Georgia. Then I will change that to "Confederacy" if it will suit the gentleman better.

Mr. MANN. Why do you not put it as you did before, namely, "Civil War?"

Mr. BARTLETT of Georgia. The gentleman will find that it will not suit the other language of the bill. The words "Civil War" will not make any sense there. I will accept any suggestion my friend makes about it. It could not be the "forces of the late rebellion." That is all. It could not be the "forces of the Civil War."

Mr. MANN. As far as I am concerned and as far as the language is concerned, so long as it means anything, I am perfectly willing to let the gentlemen from the South write it as they please, though I never could understand the force of their feeling against the word "rebellion." I rebel so often

myself, and have no apology to make for it, that I can not understand the feeling. Just so that it means what you want to accomplish, that is all I want.

Mr. BARTLETT of Georgia. That is all I mean for it to do, Mr. Speaker. Do I understand that the gentleman from Illinois [Mr. MANN] objects to it?

Mr. MANN. The words "late seceding States" would seem to declare they seceded. While I think they did, the Supreme Court thinks they did not.

Mr. BARTLETT of Georgia. Mr. Speaker, I ask to amend the amendment by saying:

Forces of the late Confederate States.

I trust that will suit my friend better. It suits me better.

The SPEAKER pro tempore. Without objection, the amendment of the gentleman from Georgia [Mr. BARTLETT] will be modified as he has suggested, and the Clerk will again report the anendment as modified.

The Clerk read as follows:

Strike out "late rebellion," in line 12, page 143, and insert: "The forces or government of the late Confederate States during the Civil War."

The SPEAKER pro tempore. The gentleman from Georgia offers another amendment, which the Clerk will report.

The Clerk read as follows:

Strike out the word "rebellion" in line 13 and insert the words "Civil War." Strike out the word "rebellion" in line 15 and insert the words "Civil War."

The SPEAKER pro tempore. Without objection, the amendments will be considered together.

The question was taken, and the amendments were agreed to.

Mr. CLARK of Florida. Mr. Speaker, in line 17 I move to strike out the word "rebellion" and insert in lieu thereof the words "Confederate service in said Civil War."

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Strike out, in line 17, the words "said rebellion" and insert in lieu thereof the words "Confederate service in said Civil War."

The question was taken; and on a division (demanded by Mr. CLARK of Florida) there were 74 yeas and 38 noes.

So the amendment was agreed to.

Mr. BARTLETT of Georgia. Now, Mr. Speaker, I ask to have the amendment read which I have sent to the Clerk's desk.

The Clerk read as follows:

Amend by inserting as a new section, to be known as section —:

"SEC. —. That the Court of Claims shall have jurisdiction to hear and determine the claims of those whose property was taken subsequent to June 1, 1865, under the provisions of the act of Congress approved March 12, 1863, entitled 'An act to provide for the collection of abandoned property and for the prevention of frauds in insurrectionary districts within the United States,' and acts amendatory thereof, where the property so taken was sold and the net proceeds thereof were placed in the Treasury of the United States; and the Secretary of the Treasury shall return said net proceeds to the owners thereof on the judgment of said court; and full jurisdiction is given to said court to adjudge said claims, any statutes of limitation to the contrary notwithstanding."

Mr. BARTLETT of Georgia. Mr. Speaker, if I can have the attention of the House for a few minutes, I think I can indicate to the House clearly what this amendment proposes to do, and I believe I can convince the House of its absolute fairness, justice, and the right to have it considered now and adopted.

Under the law as passed on the 23d of March, 1863, known as the captured and abandoned property act, there is now in the Treasury of the United States—or was at the time this report from the Secretary of the Treasury which I have here was made—something like $4,690,774.79 arising from the sale of cotton taken by the officers of the Army and agents of the United States after hostilities had ceased; all of it after the 1st of June, 1865, and a large quantity of it in December, 1865, and January and February and March, 1866.

I have not time to read this report, but the report I refer to is one made by the Secretary of the Treasury on June 30, 1894, in which he calls attention to the amount and the sources from which the amount is made up in the Treasury of the United States at that time arising from the sale of all captured and abandoned property that had been seized by the United States forces and sold under that act.

There was at that time in the Treasury of the United States a fund amounting to about $10,000,000 arising from the sale of all kinds of captured and abandoned property; but the cotton seized—and I read from the report—after June 30, 1865, yielded $4,886,671, and of this amount there was returned under the act of 1872, $195,876.20, leaving $4,690,774.79. So that this report of the Secretary of the Treasury in 1894 is an admission that the Government has in its Treasury from cotton seized in the Southern States after the 30th of June, 1865, this sum of $4,690,774.79.

I hold in my hand a report of the Secretary of the Treasury, known as Senate Document No. 23 of the Forty-third Congress, second session, in which the Secretary uses this language:

The cotton collected after the close of the war, with the exception of about 3,000 bales, was sold by supervising special agents and the proceeds disbursed for agency expenses, was consigned by such agents to Simeon Draper, United States cotton agent at New York, by whom it was sold, and the proceeds thereof accounted for to the department.

The sales were made at semimonthly intervals, between July, 1865, and October, 1866, and immediately after each sale the proceeds were deposited in the National Bank of Commerce, New York, United States depository, and transferred from time to time between October, 1865, and November, 1866, to the assistant treasurer at New York to the credit of the Treasurer of the United States, with whom they remained until covered into the Treasury as receipts from captured and abandoned property.

Mr. Speaker, attached to that document is a list of the names of the parties from whom each bale of cotton was taken, the amount and number of bales, when it was sold, where it was taken, and what it brought and the expenses incident to its sale. Each party who is entitled to this property, if entitled at all under the law—and I think I will demonstrate in a few minutes that he is—is named, and admitted by the report of the Secretary of the Treasury, particularly in this last document to which I have called attention, and in the report of the Secretary of the Treasury in 1894—admitted to have in the Treasury of the United States the proceeds of this property paid into the Treasury to this particular fund, every bale of which was taken after the 1st and most of it after the 30th of June, 1865, and large quantities of it in October and December, 1865, and January, March, and April, 1866.

[The time of Mr. BARTLETT of Georgia having expired, by unanimous consent he was granted leave to continue five minutes.]

Mr. MANN. Mr. Speaker, I would like to ask the gentleman a question.

Mr. BARTLETT of Georgia. I yield to the gentleman.

Mr. MANN. Was any of this property placed in the Treasury of the United States?

Mr. BARTLETT of Georgia. Property! I said proceeds.

Mr. MANN. But the gentleman's amendment refers to property which is placed in the Treasury of the United States.

Mr. BARTLETT of Georgia. Where the property is so taken or when sold and the proceeds placed in the Treasury of the United States.

Mr. MANN. But it says that the Court of Claims shall have jurisdiction, and so forth, where the property was taken or when sold.

Mr. BARTLETT of Georgia. That is an error, and I thank my friend for calling my attention to it—where the property so taken was sold and the net proceeds placed in the Treasury of the United States. I thank my friend for his courtesy and for calling my attention to this.

Mr. Speaker, time presses, and I do not desire to detain the House. The Supreme Court has decided in several cases, but notably in the case of the United States against Klein (80 U. S., 13 Wall., 128), that this property was held by the United States Government in trust for its true owner. I will read:

The act of March 12, 1863—

Which is the act I have named in the amendment—

to provide for the collection of abandoned and captured property in the insurrectionary districts within the United States, does not confiscate or in any case absolutely divest the property of the original owners, even though disloyal. By the seizure the Government constituted itself a trustee for those who were entitled or should thereafter be recognized as entitled to it.

Mr. WILSON of Pennsylvania. Will the gentleman yield?

Mr. BARTLETT of Georgia. Yes; with pleasure.

Mr. WILSON of Pennsylvania. I would like to inquire if the gentleman fixes the date of the 1st of June, 1865, because that is officially recognized as being the date of the close of the Civil War.

Mr. BARTLETT of Georgia. No. Of course, I see the purport of that question, and I am going to be frank, as I always am. No, the Supreme Court decided in one of these cases I have here that in the State of Georgia, in the case of Lamar against the United States, in Ninety-second United States, that the war ended in Georgia the 22d of April, 1866. They decided in a later case, not reversing this, that the war in all the States did not end until the 22d day of August, 1866. The Supreme Court decided that all hostilities ceased virtually when Lee surrendered, on the 9th day of April, 1865. Johnston, I think, surrendered on the 19th or 20th of April, 1865. Now, the Secretary of War, in this report which I have just read, uses this language:

The cotton collected after the close of the war.

Now, the war had actually closed, the final conflict had ended forever, and the flag of the Confederacy had taken its

flight to join the souls of the heroes who had laid down their lives in its defense, and our people had surrendered their arms, had gone back to their homes to again work out in peace their destiny in their respective sections. There was no longer fighting; the last gun was fired by the Confederates at Columbus, Ga., before any of this property had been seized. There was some suggestion that there were some unsurrendered bodies, insignificant in numbers, of the Confederate forces that had gone to Mexico, or intended to go to Mexico; but Gen. Richard M. Johnston, commanding the Confederate forces in Mississippi and Alabama, had surrendered, and Gen. Wilson, of the Federal forces, was sweeping all over the country and had reached Macon, Ga., where I reside, but there was not a gun in the hands of any man who belonged to the Confederate Army raised or offered to be raised against the Federal forces.

Mr. WILSON of Pennsylvania. Will the gentleman permit me another interruption?

Mr. BARTLETT of Georgia. With pleasure.

Mr. WILSON of Pennsylvania. The reason for my question was based upon this: That I understand that the Government, for the purposes of considering and determining the question of desertion, had placed June 30, 1865, as the termination of the war. I think the gentleman will find that the case if he examines it, and I wondered if that was the basis upon which the gentleman's amendment was drafted.

Mr. BARTLETT of Georgia. The gentleman will find in these decisions, if he will take the time to examine them, that in the Klein and Lamar cases the Supreme Court decided in the Lamar case the war was ended so far as Georgia was concerned on the 22d of April, 1866, but they fixed the date as August 22, 1868, as the date when for all purposes the war ended. Now, I can not recall the reason for that except that there were some legal questions that were not determined at that time.

Mr. WILSON of Pennsylvania. I think if the gentleman will examine the matter he will find that so far as the Army and Navy is concerned that regulation has been made in reference to the consideration of deserters, and I supposed that was the basis upon which the gentleman's amendment was made.

Mr. BARTLETT of Georgia. I do not recall that. There is this about it. War had actually ceased, all hostilities were at end, all the armies disbanded. By the terms of this act of 1863 the statute of limitations has attached, and proof of loyalty has been required; all we ask by this amendment is that this trust fund in the hands of the United States, who holds this property as the trustee, keeping it as a separate fund, shall, upon proof as to the identity of the true owner, be paid to the true owner, after the Court of Claims has adjudicated and determined the question as to the true ownership. That is all I desire to say.

Mr. SHEPPARD. Will the gentleman permit me to ask, What date does the gentleman assign for the close of the war in his amendment?

Mr. BARTLETT of Georgia. I do not assign any. I provide all property taken after June 1, 1865, and the proceeds thereof paid into the Treasury shall be subject to be sued for under this amendment.

The SPEAKER pro tempore. Does the gentleman from Pennsylvania [Mr. MOON] desire to be heard?

Mr. MOON of Pennsylvania. Yes. Does the gentleman from Texas [Mr. SHEPPARD] desire to speak?

Mr. SHEPPARD. Just a couple of minutes.

Mr. MOON of Pennsylvania. If the gentleman desires to speak, I will withhold.

Mr. SHEPPARD. Mr. Speaker, my able and good friend from Georgia [Mr. BARTLETT] states that the last battle of the Civil War was fought in Georgia. It has been my understanding that the last battle of our great civil conflict was fought at Palmito Ranch, in Texas, on May 13, 1865, and that the Confederates in that battle won a notable victory, although they were largely outnumbered. If there is no objection, I will place in the RECORD a description of that battle, taken from Wooten's History of Texas. The account is as follows:

Col. Ford, who was in immediate command of the Confederates, by 3 o'clock p. m. had made such preparations as were possible with his inadequate force to meet the enemy. Anderson's battalion of Cavalry, commanded by Capt. D. M. Wilson, was placed on the right, and Geddings's battalion on the left, and one section of Capt. O. G. Jones's battery of Light Artillery placed in the road, one on the left and the other held in reserve. In a short time the skirmishers became engaged and then the Artillery opened with quite a rapid fire. The shot and shell did considerable execution and seemed to throw the enemy into confusion. It was evident that they were not aware that the Confederates had any Artillery until the guns opened, and this was afterwards confirmed by the prisoners captured. The Artillery fire checked the advance of the main body of the enemy, thus leaving their skirmish line unprotected; and as soon as Col. Ford discovered this he ordered the Cavalry to charge. This they did with impetuosity, and captured the whole of the skirmish line. By this time the main body was in full retreat and a simultaneous advance was made along the whole Confederate line. The Artillery moved forward at a gallop amid the shouts of excited men, now and then taking positions on the elevated points adjacent to the road and firing at the routed and retreating enemy; and the Cavalry harassed their flank and rear with repeated charges, in which great gallantry was displayed. Thus the fight continued for 7 miles, the enemy now and then endeavoring to make a stand and check the pursuit, but as fast as they did so they were driven from their positions before they had time to recover from their demoralization. Many of the Union soldiers jumped into the Rio Grande, some swam over to the Mexican shore, and many were drowned in the muddy waters of the river. The strength of the Union force engaged was about 800 infantry, and they lost 30 killed and 113 prisoners, and two stands of colors, one of which belonged to the Thirty-fourth Indiana Regiment, and a great quantity of guns, accouterments, and clothing were scattered along the whole line of retreat. The Confederate forces engaged consisted of Geddings's and Anderson's battalions of Cavalry, the former commanded by Capt. W. N. Robinson and the latter by Capt. D. M. Wilson, their combined strength being about 300 men, and Capt. O. G. Jones's battery of Light Artillery of six guns, with Lieuts. G. H. Williams, Charles I. Evans, J. M. Smith, and S. Gregory, and about 70 men.

Their loss was five men wounded, but none of them dangerously. It was learned for the first time from the prisoners who were captured that the Confederacy had fallen and that its armies east of the Mississippi River had surrendered; and the Union officers, thinking that the Confederates had also heard of the termination of the war, had marched up from Brazos Santiago to take possession of Brownsville, not expecting any resistance. This was the last blow struck for State rights. The first clash of arms at Bull Run had ushered in the great Civil War amid the exultation of the victorious southern soldiers, and the curtain now fell upon the last scene of the dark and bloody drama amid the victorious shouts of the Texans at Palmito Ranch, the last battle of the war.

Mr. Speaker, it is a most interesting fact that this battle of Palmito Ranch was fought on the very spot where 19 years earlier Gen. Taylor with 2,000 American troops defeated a Mexican army of 6,000 under Gen. Arista at the battle of Palo Alto, the opening conflict of the Mexican War. Thus the opening battle of the Mexican War and the closing encounter of the Civil War were fought on the same spot in historic Texas. This coincidence should be commemorated by a suitable monument.

Let me say here that there was a final surrender of the last organized remnant of Confederate troops by Gen. Kirby Smith at Baton Rouge, La., on May 26, 1865. Lee had surrendered the main body at Spotsylvania Courthouse, Va., on April 9, 1865; Johnston had surrendered his command at Durham Station, N. C., April 26, 1865; and Gen. Richard Taylor had capitulated on May 6, 1865, at Citronelle, Ala. Different dates, however, have been assigned by the Supreme Court of the United States to mark the legal termination of the war. The question was decided specifically in Twelfth Wallace, 700. I would like to insert the decision in the RECORD.

Mr. PARSONS. I have a decision here to the effect that the war officially ended on the 20th of August, 1866.

Mr. SHEPPARD. That was only as to certain States. The decision I have cited goes into the case very clearly. It is the case of the Protector, Twelfth Wallace, page 700. I want to insert it in the RECORD.

Mr. PARSONS. I have a decision here which says that it ended on the 20th of August, 1866.

Mr. SHEPPARD. Suppose we insert both decisions.

Mr. PARSONS. That was the date fixed by act of Congress of March, 1867. I refer to the decision of the Supreme Court of the United States in the case of The United States against Anderson, Ninth Wallace, One hundred and fifty-fifth United States.

Mr. SHEPPARD. I suggest both of these decisions be inserted in the RECORD for the benefit of the House.

Mr. MANN. Does the gentleman think anybody will read them in fine print if they can get them in nice plain print?

Mr. SHEPPARD. I will insert the decision I have cited if gentlemen have no objection. It is short, and it is as follows:

The Chief Justice delivered the opinion of the court:

The question in the present case is, When did the rebellion begin and end? In other words, what space of time must be considered as excepted from the operation of the statute of limitations by the War of the Rebellion?

Acts of hostility by the insurgents occurred at periods so various, and of such different degrees of importance, and in parts of the country so remote from each other, both at the commencement and the close of the late Civil War, that it would be difficult, if not impossible, to say on what precise day it began or terminated. It is necessary, therefore, to refer to some public act of the political departments of the Government to fix the dates; and, for obvious reasons, those of the executive department, which may be, and, in fact, was, at the commencement of hostilities obliged to act during the recess of Congress, must be taken.

The proclamation of intended blockade by the President may therefore be assumed as marking the first of these dates, and the proclamation that the war had closed as marking the second. But the war did not begin or close at the same time in all the States. There were two proclamations of intended blockade—the first of the 19th of April, 1861, embracing the States of South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas; the second of the 27th of April, 1861, embracing the States of Virginia and North Carolina; and there were two proclamations declaring that the war had closed—one issued on the 2d of April, 1866, embracing the States of Virginia, North Caro-

lina, South Carolina, Georgia, Florida, Mississippi, Tennessee, Alabama, Louisiana, and Arkansas, and the other, issued on the 20th of August, 1866, embracing the State of Texas.

In the absence of more certain criteria of equally general application we must take the dates of these proclamations as ascertaining the commencement and the close of the war in the States mentioned in them. Applying this rule to the case before us, we find that the war began in Alabama on the 19th of April, 1861, and ended on the 2d of April, 1866. More than five years, therefore, had elapsed from the close of the war till the 17th of May, 1871, when this appeal was brought. The motion to dismiss, therefore, must be granted.

Mr. MANN. Mr. Speaker, if the gentlemen on that side of the House, who will soon be in control of the House, desire to pay all of these claims they will have an opportunity to do so when they come into control of the House. I would like to ask the gentleman from Georgia [Mr. BARTLETT] whether he would be willing to accept as an amendment to his proposition an amendment to repay to the States the amount of money that was collected as cotton tax.

Mr. BARTLETT of Georgia. Yes, sir.

Mr. MANN. Amounting to some $68,000,000?

Mr. BARTLETT of Georgia. No matter what it amounts to, it is absolutely unconstitutional and was a robbery of our people. [Applause.]

Mr. MANN. Then I suggest to some gentleman on that side of the House who wildly applauds such a provision that he offer the amendment.

Mr. BARTLETT of Georgia. Will the gentleman offer a point of order against it?

Mr. MANN. It is as much in order as the gentleman's amendment.

Mr. CLARK of Florida. If the gentleman will permit me, I will say that I have that amendment drawn here and intend to offer it.

Mr. MANN. I hope the gentleman will offer it. I shall not favor it. I hope the gentlemen, when they get in control, will declare their policy in reference to paying this claim.

Mr. HEFLIN. Mr. Speaker, I wish to say to the gentleman from Illinois [Mr. MANN] that I am the gentleman who applauded the statement that the cotton tax should be paid back to the people of the South, and I want to say to the gentleman that the cotton tax was levied and collected in violation of the Constitution of the United States, and it is the duty of Congress to return that money to the section from which it was wrongfully taken.

Mr. MANN. Now, Mr. Speaker, there was introduced into this House a bill (H. R. 25927) by the gentleman from Mississippi [Mr. SISSON] for the purpose of paying back to the States this cotton tax, and referred to the Committee on Claims, which on January 5 of last month unanimously made an adverse report upon it. Where were these distinguished gentlemen on that side of the House when this adverse report was made, that they did not file minority views?

Mr. BARTLETT of Georgia. May I interrupt my friend?

Mr. MANN. Certainly.

Mr. BARTLETT of Georgia. May I call his attention to the fact that the Senate of the United States, under the lead of the distinguished Senator from Ohio, Mr. Foraker, passed a bill to pay these claims; that the House Committee on War Claims, headed by the gentleman from New York [Mr. LAW], at the last session of Congress made a report recommending that these cotton claims be paid? And I have the report in my hands, which was a unanimous report from the Committee on War Claims, upon which there are only five Democrats, I believe, and the balance were Republicans.

Mr. MANN. Very likely. The gentleman is talking about one thing and I am talking about another. Now, I suggest, as I said before—and I do not propose to detain the House longer—you gentlemen will soon have control of the House. You can pass such bills as you please for payment of these southern claims. You will have the power, as you have had it many times before. When you have had the power before, you have been afraid to pass these claims, or at least you have not passed them.

Mr. ADAMSON. I was not here. The gentleman need not look at me. [Laughter.]

Mr. MANN. Now, when you come in control next time, show your nerve. Do not try to pass them when we are in control of the House, because you will not succeed.

Mr. MOON of Pennsylvania. Mr. Speaker, just a few words on this question. The amendment offered by the gentleman from Georgia, which provides for the insertion of a new section, accomplishes two important and far-reaching results that ought not to be attempted in this legislation. I desire to call the attention of the House clearly to the fact that it legalizes claims that have been dead for half a century, or 40 years at least. We have had on the statute book of the United States what exists on the statute books of every State of the Union—an act of limitation—a limitation of six years. The reasons for the statute of limitations are easily understood. Nothing is more dangerous than the prosecution of claims after all the evidence and living witnesses have been obliterated and have passed away.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. MOON of Pennsylvania. Certainly.

Mr. BARTLETT of Georgia. All my amendment proposes is that these citizens whose property the United States seized and has converted into money, which funds the United States, under the decision of the Supreme Court, is holding as trustee for the true owner—all my amendment does is to let these citizens show that they are the parties whose money the United States has in its Treasury and to refund it to the owner. Does the gentleman from Pennsylvania think it would be good morals, even among men, when the trustee has admitted time and time again that he is holding this money as trustee, not undertaking to use it as his own, that the owner should not be allowed to show that he is the person to whom the money belongs, or that his descendants are the owners of the money and entitled to have it returned?

Mr. MOON of Pennsylvania. I say in answer that I presume no claim was ever prosecuted in the courts in which the plaintiff did not say that the other fellow had the money which belonged to him.

Mr. BARTLETT of Georgia. Here is the report of the Secretary of the Treasury in which it is admitted that the United States has the money in its Treasury and holds it as a separate fund and does not appropriate it for any other purpose.

Mr. MOON of Pennsylvania. I say, under existing law, this claim must be prosecuted in the Court of Claims, and that the statute of limitations applies, and that the claim can not be proved unless it is asserted within six years after it accrues.

The proposed amendment strikes down that wholesome limitation. It opens litigation to this large fund, and that is not all. One of the essential requirements existing now ever since the days of the rebellion, or the Civil War, as we must now call it, has been that whenever anyone came into that court to prosecute a war claim, the preliminary essential was that he must establish the fact that he had been loyal to the Government and that he was not in arms against it. This amendment strikes down this qualification and opens the door to every person who can assert a claim against it without limitation and without proof of loyalty.

Mr. BARTLETT of Georgia. The gentleman said that one of the prerequisites was that a man must prove his loyalty. The Supreme Court, in a case that I have already called attention to, decided that loyalty is not required in any such case. The case of Klein against The United States, Eightieth United States Supreme Court Reports, so holds.

Mr. MOON of Pennsylvania. I have not time to look at the decision to which the gentleman alludes now, but have before me the language which creates the Court of Claims, and it says the claimant shall in all cases fully set forth his position, and among them is the item that he has borne true allegiance to the Government of the United States. I do not know what particular case the gentleman alludes to, but that is the language I insist on, and the gentleman from Georgia intends, by his amendment, to strike it down.

Now, Mr. Speaker, I do not propose to argue the justice of these claims at all. If they are just, a bill can be introduced and referred to the Committee on Claims, and they can be investigated, reported out, and paid. I am informed that some have been paid. I say that the legislation does not belong here. I say that we do not want to strike down these wholesome principles that have always surrounded proceedings in the Court of Claims.

Now, as a matter of fact, the success of a movement of this kind would not inure to the advantage of the claimant. I am a member of the legal profession, and I am proud of it. I think it is the experience of every man in Washington that whenever by congressional legislation we unlock a fund in the hands of the Government the most of the fund goes to the lawyers who engaged in the collection. And while I know that my friend from Georgia does not belong to that class of lawyers, I want to warn him of the fact that even if we were to permit these men to get through their claims the lawyers would get the most of it.

Mr. BARTLETT of Georgia. May I interrupt the gentleman?

Mr. MOON of Pennsylvania. Certainly.

Mr. BARTLETT of Georgia. I want to say that it never was suggested to me by a lawyer that I offer this amendment, but

my attention has been given to it because of the interest of my constituents whose interest it is my duty to represent here.

Mr. MOON of Pennsylvania. Oh, the gentleman does not need to state that. Everybody who knows the gentleman from Georgia knows that he is above it, and I particularly exempted him from that, and I say now that nobody ever dreams the gentleman is actuated by any motive of that kind. I only say that as one of the almost natural consequences that would flow from it—pointing to past legislation of this kind—that that is where most of the money would go; but, apart from all that, I ask this House to vote down this amendment.

Mr. JAMES. Will the gentleman yield?

Mr. MOON of Pennsylvania. Certainly.

Mr. JAMES. In regard to the gentleman's statement that most of these claims, if paid, would go to the attorneys, we might by proper legislation limit the amount paid to attorneys. We have such legislation as that on other matters.

Mr. LANGLEY. There is such legislation as that pending now.

Mr. MANN. Of course that could be done.

Mr. MOON of Pennsylvania. Of course that could be done; but, independent and apart from all that, I trust this House will vote down emphatically this attempt to destroy the vitality and usefulness and value of the Court of Claims in respect to war claims. I ask for a vote.

Mr. CLARK of Florida. Mr. Speaker, I shall detain the House but a moment or two. I want to say that the age of these claims has nothing to do with the justice of them. The Government of the United States ought to be willing to allow a citizen to go into her own courts and let that court under the strict rules of law say whether or not that citizen is entitled to recover. The gentleman from Illinois [Mr. MANN] has referred to the cotton-tax proposition. He wants to know if we will have the nerve to advocate such legislation. I want to say that on the 24th of January, 1908, I made a speech in this House upon that cotton-tax proposition, in which I submitted all the law and all the facts, and I think I showed conclusively that that money should be refunded to the people who paid it. These were direct taxes, levied directly upon cotton without any reference to the rule of apportionment, and a mere tyro at the bar knows that that was an absolutely void and illegal act. It makes no difference if it is $68,000,000. This Government can not afford to do wrong simply because the amount of money which it exacted from the pockets of a prostrate and poverty-stricken people is large in volume. The Supreme Court of the United States has never passed upon this question except by a divided court.

The Farrington case was decided by an equal division of the judges, and therefore the constitutionality of these acts was sustained by a divided court, but since that time the Supreme Court of the United States has emphatically declared that a tax upon land was a direct tax, and that a tax upon the products of land was a direct tax, and that the rule of apportionment had to be followed in every case. They did not follow it in any of these cases. It was a direct tax, unconstitutional, void, and wrong, and an outrage upon a prostrate people, and I will say to the gentleman from Illinois that as long as I am here I shall have the "nerve" to vote to pay an honest debt to these people.

[By unanimous consent, Mr. CLARK of Florida was permitted to extend his remarks in the RECORD.]

The Government of the United States can not in law, equity, or good morals longer retain this money from the true owners. Very little of this money was collected under the acts of 1862 and 1864, when the war between the States was in progress. The great bulk of it was collected under the acts of 1866 and 1867, when the war was ended and our people had returned to their desolate homes and devastated plantations, to rebuild that magnificent, but prostrate, territory. These acts of 1866 and 1867 were not even war measures. They were acts which can be defended on no ground on the face of the earth, except upon the barbaric ground that the victor has the right to plunder a stricken people and take from them, in defiance of all law, the scant leavings which had been overlooked by a devastating army of conquest.

As I have said, the direct questioning of the validity of these cotton-tax acts occurred in only one case—the case of Farrington, brought in the Federal court at Memphis, Tenn. The court of original jurisdiction decided in favor of the legality of the levy and collection of these taxes. Farrington appealed to the Supreme Court. Eight Justices of the Supreme Court heard and decided the case, and that court stood four justices favoring an affirmation of the decision of the court below and four Justices favoring a reversal of that decision. As every lawyer knows, when an appellate court is evenly divided this, by a well-known rule of law, works an affirmance of the decision of the court below. Even this divided opinion, Mr. Speaker, was rendered when sectional feeling was at its highest pitch, and no man can deny that in times like those the bitterness of partisan bias permeates even the judiciary itself. But long after this, when the heat of sectional hate had somewhat cooled, the Supreme Court of the United States, in what are known as the income-tax cases, laid down two principles of law, which no one will question as being sound and which settle absolutely and forever the invalidity of all four of these acts. The court held: First, that the levy of a tax on land is a direct tax, and if such tax is not levied under the rule of apportionment, the same is unconstitutional, and, second, that a tax upon any product of land is a direct tax, and if the rule of apportionment is not followed the same is unconstitutional and void. Could anything be plainer? Will any man deny that cotton is the product of land? I think no one will be found so foolish as this. It is admitted that the rule of apportionment was not followed in either of these four cases.

This is the whole case, Mr. Speaker, and upon consideration of it you can only reach one just conclusion. It is said it is a large amount. This is true; but the amount can not affect the merits of the claim. It is an honest claim. This money was extorted from our helpless people by the strong arm of power. The war ended 46 years ago. Surely this is long enough to await the payment of so just, righteous, and honest a claim.

[Mr. LANGLEY addressed the House. See Appendix.]

Mr. MANN. Mr. Speaker, I think the gentleman from Florida is amply able to protect his rights, but I understood him to state a moment ago that he had an amendment to offer——

Mr. BARTLETT of Georgia. To the section, not to my amendment.

Mr. MANN. It must come as an amendment to this amendment, or it can not come in at all.

Mr. CLARK of Florida. I said to the gentleman that I would offer it when the proper time arrived.

Mr. MANN. The proper time is right now.

Mr. CLARK of Florida. I shall take my own course about that, and not at the direction of the gentleman from Illinois.

Mr. MANN. It is the only parliamentary time the gentleman has an opportunity to try it. Now, will he try it?

Mr. JAMES. Mr. Speaker, I call for the regular order.

Mr. MANN. The opportunity is here.

Mr. JAMES. I am perfectly willing to have a song from the gentleman at any time, but this is not a place for a prima donna. I am ready to go ahead with this.

Mr. MANN. I have the floor——

Mr. JAMES. And I call for the regular order.

Mr. MANN. That is the regular order.

Mr. JAMES. I do not think it is.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from Georgia.

The question was taken, and the Chair announced that the ayes appeared to have it.

Mr. MANN. Yeas and nays, Mr. Speaker.

The yeas and nays were ordered.

The question was taken; and there were—yeas 124, nays 85, answered "present" 4, not voting 172, as follows:

YEAS—124.

Adair	Cullop	Hughes, N. J.	Pou
Adamson	Dent	Hull, Tenn.	Rainey
Aiken	Denver	Humphreys, Miss.	Ransdell, La.
Alexander, Mo.	Dickinson	James	Rauch
Anderson	Dickson, Miss.	Johnson, Ky.	Robinson
Ansberry	Dies	Johnson, S. C.	Roddenbery
Ashbrook	Dixon, Ind.	Jones	Rothermel
Austin	Driscoll, D. A.	Kinkead, N. J.	Rucker, Mo.
Barnhart	Dupre	Kitchin	Saunders
Bartlett, Ga.	Edwards, Ga.	Korbly	Sharp
Beall, Tex.	Ellerbe	Langley	Sheppard
Bell, Ga.	Ferris	Lee	Sherwood
Booher	Finley	Lever	Sims
Borland	Flood, Va.	Lively	Sisson
Brantley	Floyd, Ark.	Lloyd	Slayden
Broussard	Foster, Ill.	Macon	Slemp
Burgess	Gallagher	Maguire, Nebr.	Small
Burnett	Garner, Tex.	Martin, Colo.	Smith, Tex.
Byrd	Garrett	Massey	Sparkman
Byrns	Gill, Mo.	Mays	Stanley
Calderhead	Glass	Mitchell	Stephens, Tex.
Candler	Godwin	Moon, Tenn.	Taylor, Ala.
Cary	Gordon	Morehead	Thomas, Ky.
Clark, Fla.	Graham, Ill.	Morrison	Thomas, N. C.
Clayton	Hardy	Nicholls	Tou Velle
Cline	Hay	O'Connell	Underwood
Collier	Heflin	Oldfield	Watkins
Cowles	Helm	Page	Webb
Cox, Ind.	Henry, Tex.	Palmer, A. M.	Weisse
Craig	Houston	Peters	Wickliffe
Cravens	Hughes, Ga.	Poindexter	Wilson, Pa.

NAYS—85.

Barclay	Gardner, N. J.	Lafean	Scott
Bennet, N. Y.	Good	Lindbergh	Sheffield
Burke, S. Dak.	Graff	Longworth	Smith, Iowa
Calder	Graham, Pa.	McCredie	Southwick
Cassidy	Greene	McKinley, Ill.	Stafford
Chapman	Guernsey	McLachlan, Cal.	Sterling
Cocks, N. Y.	Hamilton	McLaughlin, Mich.	Sulloway
Cole	Hammond	Madison	Swasey
Cooper, Pa.	Haugen	Malby	Tawney
Cooper, Wis.	Hayes	Mann	Taylor, Ohio
Currier	Higgins	Martin, S. Dak.	Thistlewood
Davidson	Howell, N. J.	Moon, Pa.	Tilson
Diekema	Howell, Utah	Moore, Pa.	Townsend
Dwight	Howland	Morgan, Mo.	Volstead
Ellis	Hubbard, Iowa	Morgan, Okla.	Wanger
Esch	Hubbard, W. Va.	Moxley	Weeks
Fish	Keifer	Norris	Wheeler
Focht	Kendall	Nye	Wiley
Foss	Kennedy, Iowa	Olcott	Young, Mich.
Foster, Vt.	Kennedy, Ohio	Olmsted	
Fuller	Kopp	Parsons	
Gardner, Mass.	Küstermann	Reeder	

ANSWERED "PRESENT"—4.

Boehne	Goldfogle	McMorran	Young, N. Y.

NOT VOTING—172.

Alexander, N. Y.	Englebright	Kahn	Patterson
Allen	Estopinal	Keliher	Payne
Ames	Fairchild	Kinkaid, Nebr.	Pearre
Andrus	Fassett	Knapp	Pickett
Anthony	Fitzgerald	Knowland	Plumley
Barchfeld	Foelker	Kronmiller	Pratt
Barnard	Fordney	Lamb	Pray
Bartholdt	Fornes	Langham	Prince
Bartlett, Nev.	Fowler	Latta	Pujo
Bates	Gaines	Law	Randell, Tex.
Bennett, Ky.	Gardner, Mich.	Lawrence	Reid
Bingham	Garner, Pa.	Legare	Rhinock
Boutell	Gill, Md.	Lenroot	Richardson
Bowers	Gillespie	Lindsay	Riordan
Bradley	Gillett	Livingston	Roberts
Burke, Pa.	Goebel	Loud	Rodenberg
Burleigh	Goulden	Loudenslager	Rucker, Colo.
Burleson	Grant	Lowden	Sabath
Butler	Gregg	Lundin	Shackleford
Campbell	Griest	McCall	Sherley
Cantrill	Hamer	McCreary	Simmons
Capron	Hamill	McDermott	Smith, Cal.
Carlin	Hamlin	McGuire, Okla.	Smith, Mich.
Carter	Hanna	McHenry	Snapp
Clark, Mo.	Hardwick	McKinlay, Cal.	Sperry
Conry	Harrison	McKinney	Spight
Coudrey	Havens	Madden	Steenerson
Covington	Hawley	Maynard	Stevens, Minn.
Cox, Ohio	Heald	Miller, Kans.	Sturgiss
Creager	Henry, Conn.	Miller, Minn.	Sulzer
Crow	Hill	Millington	Talbott
Crumpacker	Hinshaw	Mondell	Taylor, Colo.
Dalzell	Hitchcock	Moore, Tex.	Thomas, Ohio
Davis	Hobson	Morse	Turnbull
Dawson	Hollingsworth	Moss	Vreeland
Denby	Howard	Mudd	Wallace
Dodds	Huff	Murdock	Washburn
Douglas	Hughes, W. Va.	Murphy	Willett
Draper	Hull, Iowa	Needham	Wilson, Ill.
Driscoll, M. E.	Humphrey, Wash.	Nelson	Wood, N. J.
Durey	Jamieson	Padgett	Woods, Iowa
Edwards, Ky.	Johnson, Ohio	Palmer, H. W.	Woodyard
Elvins	Joyce	Parker	

So the amendment was agreed to.

The Clerk announced the following additional pairs:

For the session:

Mr. McMORRAN with Mr. PUJO.

Until further notice:

Mr. AMES with Mr. CARLIN.

Mr. ANTHONY with Mr. CARTER.

Mr. BATES with Mr. COVINGTON.

Mr. BOUTELL with Mr. COX of Ohio.

Mr. BUTLER with Mr. FITZGERALD.

Mr. CRUMPACKER with Mr. GREGG.

Mr. DODDS with Mr. HARRISON.

Mr. DRAPER with Mr. KELIHER.

Mr. FASSETT with Mr. LATTA.

Mr. FORDNEY with Mr. MCDERMOTT.

Mr. GILLETT with Mr. MCHENRY.

Mr. GRIEST with Mr. MAYNARD.

Mr. HILL with Mr. MOSS.

Mr. MCCALL with Mr. RANDELL of Texas.

Mr. MCGUIRE of Oklahoma with Mr. SABATH.

Mr. MADDEN with Mr. SPIGHT.

Mr. PRINCE with Mr. SULZER.

Mr. BARCHFELD with Mr. TURNBULL.

Mr. PRATT with Mr. SHACKLEFORD.

Mr. DAVIS with Mr. LIVINGSTON.

For balance of the day:

Mr. PEARRE with Mr. RICHARDSON.

Mr. MILLER of Kansas with Mr. BOWERS.

The result of the vote was announced as above recorded.

Mr. SHEPPARD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER pro tempore. Is there objection? [After a pause.] The Chair hears none.

Mr. MOON of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. Will the gentleman withhold his request for a moment?

WITHDRAWAL OF PAPERS.

By unanimous consent, Mr. MCLAUGHLIN of Michigan was granted leave to withdraw from the files of the House, without leaving copies, the papers in the case of John W. Waalkes, Sixty-first Congress, no adverse report having been made thereon.

LEAVE OF ABSENCE.

By unanimous consent, Mr. MURDOCK was granted leave of absence for 10 days on account of illness.

ADJOURNMENT.

The SPEAKER pro tempore. The question is on the motion of the gentleman from Pennsylvania that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes) the House adjourned to meet to-morrow, February 9, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Secretary of the Interior submitting an estimate of appopriation for heating, lighting, and power plant (H. Doc. No. 1364); to the Committee on Appropriations and ordered to be printed.

2. A letter from the Secretary of the Treasury, transmitting a copy of a letter from the Attorney General submitting an estimate of appropriation for alterations in the courthouse, Washington, D. C. (H. Doc. No. 1365); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the several calendars therein named, as follows:

Mr. ANTHONY, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 31728) to authorize the Manhattan City & Interurban Railway Co. to construct and operate an electric railway line on the Fort Riley Military Reservation, and for other purposes, reported the same without amendment, accompanied by a report (No. 2095), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. MCCREDIE, from the Committee on the Public Lands, to which was referred the bill of the Senate (S. 8241) providing for the reappraisement and sale of certain lands in the town site of Port Angeles, Wash., and for other purposes, reported the same with amendment, accompanied by a report (No. 2099), which said bill and report were referred to the Committee of the Whole House on the state of the Union.

Mr. BRADLEY, from the Committee on Military Affairs, to which was referred the resolution of the House (H. J. Res. 276) modifying certain laws relating to the military records of certain soldiers and sailors, reported the same without amendment, accompanied by a report (No. 2090), which said resolution and report were referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS.

Under clause 2 of Rule XIII, private bills and resolutions were severally reported from committees, delivered to the Clerk, and referred to the Committee of the Whole House, as follows:

Mr. WEISSE, from the Committee on Invalid Pensions, to which was referred sundry bills of the Senate reported in lieu thereof the bill (S. 10454) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, accompanied by a report (No. 2088), which said bill and report were referred to the Private Calendar.

Mr. KINKEAD of New Jersey, from the Committee on Invalid Pensions, to which was referred sundry bills of the Senate, reported in lieu thereof the bill (S. 10595) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such

soldiers and sailors, accompanied by a report (No. 2089), which said bill and report were referred to the Private Calendar.

Mr. GREGG, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 27827) for the relief of William H. Walsh, reported the same without amendment, accompanied by a report (No. 2091), which said bill and report were referred to the Private Calendar.

Mr. CRAVENS, from the Committee on Military Affairs, to which was referred the bill of the House (H. R. 31823) to cede and sell to the city of Fort Smith, State of Arkansas, a municipal corporation, a portion of a tract of ground adjoining the national cemetery in said city of Fort Smith, State of Arkansas, as described in the act herein, reported the same with amendment, accompanied by a report (No. 2092), which said bill and report were referred to the Private Calendar.

Mr. ROBERTS, from the Committee on Naval Affairs, to which was referred the bill of the Senate (S. 9674) for the relief of James Henry Payne, reported the same without amendment, accompanied by a report (No. 2093), which said bill and report were referred to the Private Calendar.

Mr. OLCOTT, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 26768) for the relief of Robert L. Phythian and Rush R. Wallace, reported the same with amendment, accompanied by a report (No. 2094), which said bill and report were referred to the Private Calendar.

Mr. BATES, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 11009) for the relief of Julius A. Kaiser, reported the same without amendment, accompanied by a report (No. 2096), which said bill and report were referred to the Private Calendar.

Mr. BUTLER, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 13384) placing M. H. Plunkett, assistant engineer, United States Navy, on the retired list with an advanced rank, reported the same without amendment, accompanied by a report (No. 2097), which said bill and report were referred to the Private Calendar.

Mr. DAWSON, from the Committee on Naval Affairs, to which was referred the bill of the House (H. R. 16827) placing John W. Saville, passed assistant engineer, United States Navy, on the retired list with an advanced rank, reported the same without amendment, accompanied by a report (No. 2098), which said bill and report were referred to the Private Calendar.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 20547) granting a pension to Edward Fay, jr.; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

A bill (H. R. 31697) for the relief of Robert C. Schenck, late paymaster, United States Navy; Committee on Military Affairs discharged, and referred to the Committee on Naval Affairs.

A bill (H. R. 31248) granting a pension to Harriet Virginia Tiernon; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

PUBLIC BILLS, RESOLUTIONS, AND MEMORIALS.

Under clause 3 of Rule XXII, bills, resolutions, and memorials were introduced and severally referred as follows:

By Mr. JAMIESON: A bill (H. R. 32616) to regulate the withdrawal of distilled spirits from bonded warehouses; to the Committee on Ways and Means.

By Mr. COVINGTON: A bill (H. R. 32617) to promote the safety of employees and travelers upon railroads, by compelling common carriers in the Territories and the District of Columbia and those engaged in interstate commerce to equip certain of their cars with the means of lighting the same by electricity, and to so light them; to the Committee on the Post Office and Post Roads.

By Mr. FOSS: A bill (H. R. 32618) for the improvement of Fort Sheridan, Ill.; to the Committee on Appropriations.

By Mr. MORGAN of Oklahoma: A bill (H. R. 32619) to amend paragraph No. 233, section 1, of an act entitled "An act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August 5, 1909; to the Committee on Ways and Means.

By Mr. CLAYTON: A bill (H. R. 32620) providing that questions of negligence and contributory negligence shall be submitted to the jury; to the Committee on the Judiciary.

By Mr. COX of Indiana: Resolution (H. Res. 953) providing for the payment of a certain sum of money to E. L. Williams; to the Committee on Accounts.

By Mr. CARY (by request): Resolution (H. Res. 954) to investigate charges against a law clerk in the Department of Justice for inserting a spurious history of legislation in legal opinions given by solicitors of the Treasury to the Secretary of the Treasury; to the Committee on Rules.

By Mr. COX of Ohio: Resolution (H. Res. 955) directing the Board of Managers for the National Home for Disabled Volunteer Soldiers to furnish to the House of Representatives a receipt and disbursement of certain moneys; to the Committee on Military Affairs.

By Mr. MASSEY: Resolution (H. Res. 956) providing for the payment of a certain sum of money to George Chadsey; to the Committee on Accounts.

By Mr. HAMER: Memorial of the Legislature of Idaho, asking Congress to provide for a more liberal education on the subject of irrigation, through the irrigation branch of the United States Department of Agriculture; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS.

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. AIKEN: A bill (H. R. 32621) granting a pension to Anna Smith; to the Committee on Invalid Pensions.

By Mr. ANDERSON: A bill (H. R. 32622) granting an increase of pension to Thomas H. Chance; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32623) granting an increase of pension to Emanuel Strader; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32624) granting an increase of pension to Alexander Aungst; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32625) granting an increase of pension to William O. Bulger; to the Committee on Pensions.

Also, a bill (H. R. 32626) granting a pension to Emogene Marshall; to the Committee on Invalid Pensions.

By Mr. ANTHONY: A bill (H. R. 32627) to pay the city of Topeka, Kans., taxes, with interest, assessed against the lots on which is located the Federal building, for street improvements adjacent thereto; to the Committee on Claims.

Also, a bill (H. R. 32628) granting an increase of pension to Francis Berry; to the Committee on Invalid Pensions.

By Mr. AUSTIN: A bill (H. R. 32629) for the relief of Annie Campbell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32630) for the relief of William P. Douglass; to the Committee on Military Affairs.

Also, a bill (H. R. 32631) granting an increase of pension to Godfrey D. Sanders; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32632) granting an increase of pension to Alva O. Brooks; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32633) granting a pension to Benjamin Phillips; to the Committee on Pensions.

Also, a bill (H. R. 32634) granting a pension to Julia A. Rouse; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32635) granting a pension to George W. Hatcher; to the Committee on Pensions.

Also, a bill (H. R. 32636) granting a pension to Mitchell Fritts; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32637) granting a pension to Thomas Swallow; to the Committee on Pensions.

By Mr. BRADLEY: A bill (H. R. 32638) granting an increase of pension to Anna H. Fitch; to the Committee on Invalid Pensions.

By Mr. COX of Ohio: A bill (H. R. 32639) granting a pension to Beatrice Snyder; to the Committee on Pensions.

Also, a bill (H. R. 32640) granting a pension to Harriet A. Porter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32641) granting a pension to Catharine Campbell; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32642) granting a pension to Louis Farhlender; to the Committee on Pensions.

Also, a bill (H. R. 32643) granting a pension to Louis A. Rowe; to the Committee on Pensions.

Also, a bill (H. R. 32644) granting a pension to Mary A. Wiegand; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32645) granting an increase of pension to George F. Kimball; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32646) granting an increase of pension to Thomas Kenney; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32647) granting an increase of pension to Alexander Wood; to the Committee on Invalid Pensions.

By Mr. DENT: A bill (H. R. 32648) granting an increase of pension to Thomas L. Williams; to the Committee on Pensions.

By Mr. DIXON of Indiana: A bill (H. R. 32649) granting an increase of pension to Nicholas Rullis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32650) granting an increase of pension to William H. Griner; to the Committee on Invalid Pensions.

By Mr. FASSETT: A bill (H. R. 32651) granting an increase of pension to Ezra Niles; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32652) granting an increase of pension to Frank Sayre; to the Committee on Invalid Pensions.

By Mr. GILLETT: A bill (H. R. 32653) granting a pension to Eunice Ella Stockwell; to the Committee on Invalid Pensions.

By Mr. GUERNSEY: A bill (H. R. 32654) granting an increase of pension to Henry C. Parker; to the Committee on Invalid Pensions.

By Mr. HILL: A bill (H. R. 32655) for the relief of James B. Garrison; to the Committee on Claims.

By Mr. LONGWORTH: A bill (H. R. 32656) granting an increase of pension to Simon Roth; to the Committee on Invalid Pensions.

By Mr. McKINLEY of Illinois: A bill (H. R. 32657) granting an increase of pension to Thomas J. Carpenter; to the Committee on Invalid Pensions.

By Mr. McLACHLAN of California: A bill (H. R. 32658) granting an increase of pension to Franklin A. Hardin; to the Committee on Invalid Pensions.

By Mr. MAYS: A bill (H. R. 32659) granting a pension to John J. Boggs; to the Committee on Pensions.

By Mr. MORGAN of Oklahoma: A bill (H. R. 32660) granting a pension to Catherine F. Edsall; to the Committee on Invalid Pensions.

By Mr. MORRISON: A bill (H. R. 32661) for the relief of the heirs at law of Isaac D. Armstrong, deceased; to the Committee on Claims.

By Mr. SHARP: A bill (H. R. 32662) granting an increase of pension to Zenas Funk; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32663) granting an increase of pension to Fidel Saile; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32664) granting an increase of pension to Milford James; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32665) granting an increase of pension to George W. Cushman; to the Committee on Invalid Pensions.

By Mr. SHEFFIELD: A bill (H. R. 32666) granting a pension to Harold E. Macomber; to the Committee on Invalid Pensions.

Also, a bill (H. R. 32667) granting an increase of pension to Lewis Brown; to the Committee on Invalid Pensions.

By Mr. SMALL: A bill (H. R. 32668) granting a pension to Cecil R. Berry; to the Committee on Pensions.

By Mr. SPARKMAN: A bill (H. R. 32669) granting a pension to James Duff; to the Committee on Pensions.

Also, a bill (H. R. 32670) granting an increase of pension to James M. Hendry; to the Committee on Invalid Pensions.

By Mr. TOU VELLE: A bill (H. R. 32671) granting an increase of pension to Emanuel Strader; to the Committee on Invalid Pensions.

By Mr. WOOD of New Jersey: A bill (H. R. 32672) granting an increase of pension to John Larue; to the Committee on Invalid Pensions.

By Mr. BOEHNE: A bill (H. R. 32673) granting a pension to Mary Lankford; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XII, petitions and papers were laid on the Clerk's desk and referred as follows:

By the SPEAKER: Memorial of Legislature of the State of Montana, praying for the location of the Panama-Pacific International Exposition at San Francisco, Cal.; to the Committee on Industrial Arts and Expositions.

Also, petition of Local Union No. 13073, of the Stone Planer Men's Union, of Chicago, Ill., praying for the enactment of legislation restricting immigration; to the Committee on Immigration and Naturalization.

Also, petition of Italian Chamber of Commerce, of New York City, protesting against legislation for the restriction of immigration; to the Committee on Immigration and Naturalization.

Also, petition of M. V. Brickay, of Rankin; George McCrackin, of Danville; and other citizens of Illinois, protesting against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

Also, memorial of the General Assembly of the State of Missouri, praying for national assistance for the drainage of certain lands along the Mississippi River; to the Committee on Agriculture.

Also, petition of National Woolgrowers' Association, praying for legislation for the establishment of a botanical laboratory in the city of Denver, Colo., to discover drought-resistant species of cereals and other agricultural plants; to the Committee on Agriculture.

Also, memorial of the State of Idaho, praying for legislation to adjust the claims of States or Territories; to the Committee on the Public Lands.

Also, petition of the executive committee of the committee on peace of the Associated Yearly Meetings of the Society of Friends, protesting against the expenditure of public funds in military and naval operations and the fortification of the Panama Canal; to the Committee on Military Affairs.

Also, petition of Stone Planer Men's Union, No. 13093, of Chicago, Ill., praying for legislation providing for the construction of battleships in navy yards; to the Committee on Naval Affairs.

Also, petition of the president of the First National Bank of Charleston, S. C., and other bankers, protesting against the passage of the bill against compulsory pilotage; to the Committee on the Merchant Marine and Fisheries.

Also, memorial of the Legislature of the State of Idaho, praying for legislation to grant the lands and buildings in the Fort Walla Walla Military Reservation to Whitman College; to the Committee on Military Affairs.

By Mr. AIKEN: Memorial of the Junior Order of United American Mechanics, of Greenville, S. C., in behalf of restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ANDERSON: Petition of Attica (Ohio) Daughters of Ohio, for more stringent immigration laws; to the Committee on Immigration and Naturalization.

Also, petition of Molders' Union of North America, of Galion, Ohio, for repeal of oleomargarine tax; to the Committee on Ways and Means.

By Mr. ANSBERRY: Petition of business firms of Montpelier, Ohio, against a parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of International Association of Mechanics, favoring building of battleships in Government navy yards; to the Committee on Naval Affairs.

Also, petition of Highland Grange, No. 879, of Defiance County, Ohio, favoring a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. ANTHONY: Petition of Local Union No. 915, United Brotherhood of Carpenters and Joiners of America, of Horton, Kans., for H. R. 15413; to the Committee on Immigration and Naturalization.

By Mr. ASHBROOK: Petition of Ohio State Grange, against Canadian reciprocity; to the Committee on Ways and Means.

Also, petitions of Chamber of Commerce and Manufacturers' Club of Buffalo, N. Y., for Canadian reciprocity; to the Committee on Ways and Means.

By Mr. BOOHER: Petitions of citizens of Barnard, Union Star, Cawood, Helena, Cosby, St. Joseph, Platte City, Hopkins, Nishnabotna, Forest City, Agency, Weston, De Kalb, and Craig, all in the fourth congressional district of Missouri, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. BUTLER: Petition of Washington Camp No. 281, Patriotic Order Sons of America, of Chester, Pa., for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. CAPRON: Papers to accompany bills for relief of Hannah E. Crowell, Waldo Rainsford, Zina W. Johnson, Ella F. Bussey, Samuel E. Reynolds, and Ernest S. Cashin; to the Committee on Invalid Pensions.

Also, petition of the Union Oil Co., of Providence, R. I., favoring Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of H. P. Cornell Co. and the W. E. Bartlett Co., of Providence, R. I., for the Esch phosphorus bill; to the Committee on Interstate and Foreign Commerce.

Also petition of Weaver & Co. (Inc.), against the so-called Heyburn paint bill; to the Committee on Interstate and Foreign Commerce.

Also, petition of Town Councils of East Providence, Cumberland, Warwick, South Kingston, Johnston, Pawtucket, Barrington, and Little Compton, in the State of Rhode Island, favoring Senate bill 5677, to promote efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

Also, petition of Pawtucket Council, Junior Order United American Mechanics, of Shannock, R. I., for enactment of the illiteracy-test immigration law; to the Committee on Immigration and Naturalization.

Also, petition of Rhode Island Branch, National German-American Alliance, favoring bill for a monument at Germantown, Pa., memorializing first permanent German settlement in America; to the Committee on the Library.

By Mr. COVINGTON: Petition of Retail Merchants of Maryland, against the establishment of a parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of shipowners and masters in Maryland, for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. DAWSON: Petition of citizens of Muscatine, Nichols, Conesville, and Lone Tree, in the State of Iowa, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. DRAPER: Petition of New York Produce Exchange, for Canadian reciprocity; to the Committee on Ways and Means.

By Mr. MICHAEL E. DRISCOLL: Petition of O. V. Tracy & Co., of Syracuse, N. Y., against a parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of Local Lodge No. 381, International Association of Machinists, and Central Trades and Labor Assembly, of Syracuse, N. Y., for restriction of immigration; to the Committee on Immigration and Naturalization.

By Mr. ESCH: Petition of the National Wholesale Dry Goods Association, for a tariff commission; to the Committee on Ways and Means.

By Mr. FOCHT: Petition of Waynesboro Council, Landisburg Council, and Warfordsburg Council, No. 913, Junior Order United American Mechanics, and Washington Camp, No. 495, of Shamokin Dam, and Washington Camp, No. 375, of Liverpool, all in the State of Pennsylvania, for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. FORNES: Petition of New York Chamber of Commerce, for prompt ratification of Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of International Paper Co., of New York, against Canadian reciprocity; to the Committee on Ways and Means.

By Mr. FULLER: Petition of citizens of Illinois, against a parcels-post law; to the Committee on the Post Office and Post Roads.

Also, petition of Walla Walla Trades and Labor Council, relative to abandoned land of Fort Walla Walla; to the Committee on the Public Lands.

Also, petition of Chamber of Commerce of Watertown, N. Y., against reciprocity; to the Committee on Ways and Means.

Also, petition of W. M. Menk & Son, of Hinckley, Ill., against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. GOULDEN: Petition of New York Produce Exchange, commending the proposed reciprocal agreement with Canada; to the Committee on Ways and Means.

By Mr. GRIEST: Petition of citizens of Pennsylvania, for building battleship *New York* in a Government navy yard; to the Committee on Naval Affairs.

By Mr. HOWELL of Utah: Petitions of Hyrum Jensen and others, of Collinston; D. B. Holland and others, of Tremonton; and Rowen Kelly Co., of Salt Lake City, in the State of Utah, against a parcels-post law; to the Committee on the Post Office and Post Roads.

By Mr. HUFF: Petition of Local No. 83, Glass Bottle Blowers' Association, of Butler; Pride of the Valley Council, Junior Order United American Mechanics; Washington Camp No. 730, Patriotic Order Sons of America, of Baldwin, all in the State of Pennsylvania, for restricted immigration; to the Committee on Immigration and Naturalization.

By Mr. KENNEDY of Ohio: Petition of Bagley Council, Junior Order United American Mechanics, for House bill 15413; to the Committee on Immigration and Naturalization.

Also, petition of citizens of Ohio, protesting against the parcels-post bill; to the Committee on the Post Office and Post Roads.

By Mr. LATTA: Petitions of Albert Leamons and others, of Lyons; Becker & Co. and others, of Allen; M. W. Boland and others, of Tekamah; J. C. Schwichtenberg and others, of Plainview; Ed. A. Baugh & Co. and 13 others, of Oakland; Ernest F. Hans, of Battle Creek; S. M. Torrance and 14 others, of Silver Creek; A. G. Vupka and 7 others, of Schuyler; Pallock & Co. and 11 others, of Columbus; Fred Young and 8 others, of North Bend; and Ross & Hart and 14 others, of Central City, all of the State of Nebraska, against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of W. W. Bowland and a number of other citizens of Tekamah, Nebr., against House joint resolution 17, Sunday observance in the District of Columbia; to the Committee on the District of Columbia.

By Mr. LOUD: Petition of Central Labor Union of Brooklyn, N. Y., favoring the illiteracy test as to immigrants; to the Committee on Immigration and Naturalization.

By Mr. McMORRAN: Petition of Niles Bros., of Carsonville, against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of 114 farmers and business men of the seventh congressional district of Michigan, protesting against the adoption of the proposed reciprocal tariff legislation with Canada; to the Committee on Ways and Means.

By Mr. MAGUIRE of Nebraska: Petition of business men of Dunbar, Lorton, and Talmage, Nebr., and of Nemaha, Brownville, and Peru, against a rural parcels post; to the Committee on the Post Office and Post Roads.

Also, petition of Omaha Retail Butchers' Protective Association, for repeal of tax on oleomargarine; to the Committee on Ways and Means.

By Mr. MILLINGTON: Memorial of the Little Falls (N. Y.) Lodge, Patrons of Husbandry, protesting against the confirmation of the proposed agreement with Canada; to the Committee on Ways and Means.

By Mr. MOON of Tennessee: Paper to accompany bill for relief of Andrew J. Mullins; to the Committee on Invalid Pensions.

By Mr. MOORE of Pennsylvania: Petitions of Washington Camps Nos. 303, 77, and 290, Patriotic Order Sons of America, urging passage of House bill 15413, and Saxton Council, No. 4591, Junior Order United American Mechanics, for illiteracy test; to the Committee on Immigration and Naturalization.

By Mr. NICHOLLS: Petitions of Washington Camps Nos. 790, 280, and 333, Patriotic Order Sons of America, of Oliphant, Elmhurst, and Scranton, all in the State of Pennsylvania, for House bill 15413; to the Committee on Immigration and Naturalization.

By Mr. ROBINSON: Paper to accompany bill for benefit of Hot Springs, relative to a public park; to the Committee on the Public Lands.

Also, petition of J. J. Weindel, against a parcels-post system; to the Committee on the Post Office and Post Roads.

By Mr. SHEFFIELD: Papers to accompany bills for relief of Lewis Brown and Lewis B. Field; to the Committee on Invalid Pensions.

Also, petition of Town Council of East Providence, R. I., favoring Senate bill 5677, to promote efficiency of the Life-Saving Service; to the Committee on Interstate and Foreign Commerce.

By Mr. STEENERSON: Resolutions unanimously passed by a farmers' mass meeting of St. Vincent Township, Kittson County, Minn., on the international boundary line, W. J. Ford, chairman, and R. E. Bennett, secretary, protesting against reciprocity agreement with Canada, on the ground that it will depreciate the value of their farms and farm products and is class legislation against farmers and in favor of manufacturers and middlemen; to the Committee on Ways and Means.

By Mr. STURGISS: Resolutions in support of House bill 15413 adopted by Local Council No. 62; Wise Council, No. 185; Potomac Valley Council, and Berkeley Springs Council, Junior Order United American Mechanics, of Junior, Wana, Blaine, and Berkeley Springs, all in the State of West Virginia; and Washington Camps Nos. 27 and 32, Patriotic Order Sons of America, of New Creek and Capon Bridge, W. Va.; to the Committee on Immigration and Naturalization.

By Mr. SULZER: Petition of National Educational Association, for a Federal children's bureau (H. R. 27068); to the Committee on Expenditures in the Interior Department.

Also; petition of Los Angeles County Osteopathic Society, against the Owen, Mann, and Creager bills; to the Committee on Interstate and Foreign Commerce.

Also, petition of Batavia Typographical Union, No. 511, for Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of New York Produce Exchange, for Canadian reciprocity; to the Committee on Ways and Means.

Also, petition of Chamber of Commerce of New York, for Canadian reciprocity; to the Committee on Ways and Means.

By Mr. TOWNSEND: Petition of citizens of Quincy and of Hillsdale County, Mich., and of D. C. Wells, B. W. Phillips, and Ned B. Spencer, and others, in favor of a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of citizens of Monroe and Washtenaw Counties, Mich., against a parcels-post system; to the Committee on the Post Office and Post Roads.

Also, petition of Methodist Episcopal Church of Quincy, Mich., for House bill 2364, Miller-Curtis bill; to the Committee on the Judiciary.

By Mr. UNDERWOOD: Papers relative to proceedings of a board of officers convened at Fort Morgan, Ala., May 10, 1909, for an investigation to fix cause for loss of commissary funds, etc.; to the Committee on Military Affairs.

By Mr. WEBB: Petition of Grassland Council, No. 209, Altamont, N. C., for more stringent immigration laws; to the Committee on Immigration and Naturalization.

Also, petition of North Carolina Society of New York, for the Appalachian forest reserve bill; to the Committee on Agriculture.

By Mr. WOOD of New Jersey: Paper to accompany bill for relief of John Larue; to the Committee on Invalid Pensions.

Also, petition of Washington Camp No. 14, Patriotic Order Sons of America, Trenton, N. J., for House bill 15413; to the Committee on Immigration and Naturalization.

Also, petition of C. H. Rumford and other citizens of Trenton, N. J., for construction of battleships in Government navy yards; to the Committee on Naval Affairs.

Also, petition of Daniel Willets, of Trenton, N. J., and other members of the Society of Friends in America, deploring the proposal to fortify the Panama Canal and favoring its neutralization by international agreement; to the Committee on Military Affairs.

SENATE.

THURSDAY, *February 9, 1911.*

Prayer by the Chaplain, Rev. Ulysses G. B. Pierce, D. D.

The Secretary proceeded to read the Journal of yesterday's proceedings when, on request of Mr. KEAN, and by unanimous consent, the further reading was dispensed with and the Journal was approved.

CREDENTIALS.

Mr. NEWLANDS presented the credentials of GEORGE S. NIXON, chosen by the Legislature of the State of Nevada a Senator from that State for the term beginning March 4, 1911, which were ordered to be filed.

Mr. TAYLOR presented the credentials of LUKE LEA, chosen by the Legislature of the State of Tennessee a Senator from that State for the term beginning March 4, 1911, which were read and ordered to be filed.

COURTS IN IDAHO AND WYOMING.

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 3315) amending an act entitled "An act to amend an act to provide the times and places for holding terms of the United States court in the States of Idaho and Wyoming," approved June 1, 1898, which was to strike out all after the enacting clause and insert:

That section 3 of "An act to provide the times and places for holding terms of the United States courts in the States of Idaho and Wyoming," approved July 5, 1892, as amended by the amendatory act approved June 1, 1898, be amended so as to read as follows:

"SEC. 3. That for the purpose of holding terms of the district court said district shall be divided into four divisions, to be known as the northern, central, southern, and eastern divisions. The territory embraced on the 1st day of July, 1910, in the counties of Shoshone, Kootenai, and Bonner shall constitute the northern division of said district; and the territory embraced on the date last mentioned in the counties of Latah, Nez Perce, and Idaho shall constitute the central division of said district; and the territory embraced on the date last mentioned in the counties of Ada, Boise, Blaine, Cassia, Twin Falls, Canyon, Elmore, Lincoln, Owyhee, and Washington shall constitute the southern division of said district; and the territory embraced on the date last mentioned in the counties of Bingham, Bear Lake, Custer, Fremont, Bannock, Lemhi, and Oneida shall constitute the eastern division of said district."

SEC. 2. That section 6 of said act as amended by the act approved June 1, 1898, be amended so as to read as follows:

"SEC. 6. That the terms of the district court for the northern division of the State of Idaho shall be held at Coeur d'Alene City on the fourth Monday in May and the third Monday in November; for the central division, at Moscow on the second Monday in May and the first Monday in November; for the southern division, at Boise City on the second Mondays in February and September; and for the eastern division, at Pocatello on the second Mondays in March and October; and the provision of any statute now existing providing for the holding of said terms on any day contrary to this act is hereby repealed; and all suits, prosecutions, process, recognizance, bail bonds, and other things pending in or returnable to said court are hereby transferred to, and shall be made returnable to, and have force in the said respective terms in this act provided in the same manner and with the same effect as they would have had had said existing statute not been passed.

"That the clerk of the district and circuit courts for the district of Idaho and the marshal and district attorney for said district shall perform the duties appertaining to their offices, respectively, for said courts of the said several divisions of said judicial district. Whenever in the judgment of the district and circuit judges the business of said courts hereafter shall warrant the employment of a deputy clerk at Coeur d'Alene City, new books and records may be opened for the said court and a deputy clerk appointed to reside and keep his office at Coeur d'Alene City."

Mr. HEYBURN. I move that the Senate concur in the House amendment.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by W. J. Browning, its Chief Clerk, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 31237) making appropriation for the support of the Army for the fiscal year ending June 30, 1912; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HULL of Iowa, Mr. PRINCE, and Mr. SULZER managers at the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice President:

S. 9449. An act to provide a commission to secure plans and designs for a monument or memorial to the memory of Abraham Lincoln; and

S. 9552. An act to authorize the construction of a bridge across St. John River, Me.

PETITIONS AND MEMORIALS.

The VICE PRESIDENT presented a joint memorial of the Legislature of the State of Oregon, which was referred to the Committee on Military Affairs and ordered to be printed in the RECORD, as follows:

Joint memorial praying that a grant of the land and buildings of the Fort Walla Walla Military Reservation be made to Whitman College.

To the President and Congress of the United States of America:

Your memorialist, the Legislature of the State of Oregon, prays that the land and buildings comprising the Fort Walla Walla Military Reservation and Barracks may be granted to Whitman College. The reasons deemed sufficient to justify this memorial are set forth in the following statement:

The War Department has determined that the military service does not require the maintenance of a military post at Fort Walla Walla, and the troops have been withdrawn, except a few necessary caretakers, so that in future the preservation of the property will be a burden upon the Government, without any compensating benefit.

The property is, by reason of its situation and character, adapted to the needs of Whitman College, its use by the college will be the best use to which it can be devoted, and the Nation will derive the greatest benefit from the property by intrusting it to an institution in every way worthy and capable of using it in the cause of higher education.

There is within the boundaries of the reservation a soldiers' cemetery containing the graves of a number of men who died while in the military service of the United States. This cemetery has been well kept by the officers and soldiers heretofore stationed at Fort Walla Walla, and if the prayer of your memorialist shall be granted, the trustees of Whitman College will assume an obligation to so care for this soldiers' cemetery as to show, perpetually, the respect due to our country's defenders.

Texas and Hawaii became annexed to the United States without contributing anything to the wealth of the Nation as a land proprietor and other acquisitions of territory except the Oregon country, were purchased and paid for out of the National Treasury; but more than 300,000 square miles of country, comprising the States of Oregon, Washington, Idaho, and parts of Montana and Wyoming, became part of our national domain through the instrumentality of patriotic pioneers, of whom Dr. Marcus Whitman was a type and a leader. They penetrated the wilderness and wrested that country with its wealth of land, forests, mines, waters, and fisheries from the grasp of a foreign corporation and held it until the growth of public sentiment forced the Government to bring to a conclusion the diplomatic controversy with respect to its ownership by the treaty with Great Britain of 1846, whereby the American title was finally recognized and established.

The scene of one of the tragedies of American history is in the immediate vicinity of Fort Walla Walla. There a monument commemorates the lives of Dr. Whitman and his wife and a dozen of their associates, part of the vanguard of American civilization who were massacred by the aboriginal inhabitants. Our Nation loves to honor those whose names illuminate the pages of its history. For that purpose the Government has willingly expended liberal appropriations in payment for statuary, monuments, and paintings produced by the most talented artists of the world, and the granting of Fort Walla Walla as a contribution to the college founded by an intimate friend and coworker of Dr. Whitman to honor his memory, and which has appealed to the sentiment of public-spirited, patriotic citizens, bringing responses in liberal contributions to its endowment, will be heartily approved by the people at large. In return for the national aggrandizement resulting directly from the exertion, privations, and sacrifices of the Oregon pioneers, the Nation can well afford to bestow one section of land, and the buildings which it does not require for use, as a gift to an institution of learning which the people of the three Northwestern States have adopted as an object of their solicitude and pride.

Whitman College is a privately endowed, nonsectarian, Christian college, intended to supply the need of those States for such an institution of higher education. It commands the respect and has the earnest sympathy of learned people and good people in every section of the United States, and its destiny is to grow in importance, as the country surrounding it shall advance in all the ways that mark the development of arts and sciences. No more fitting monument has been erected, nor to a worthier man.

The State of Washington and its citizens have paid for and donated to the United States the land comprised within two military posts, viz, Fort Lawton, near Seattle, and Fort Wright, near Spokane, each including more than 1,000 acres. These lands were purchased after they had become valuable and after they had been selected for military use, and the acquisition thereof for the use of the Government involved labor and patience on the part of public-spirited citizens in soliciting contributions of land and money and in overcoming objections of owners,